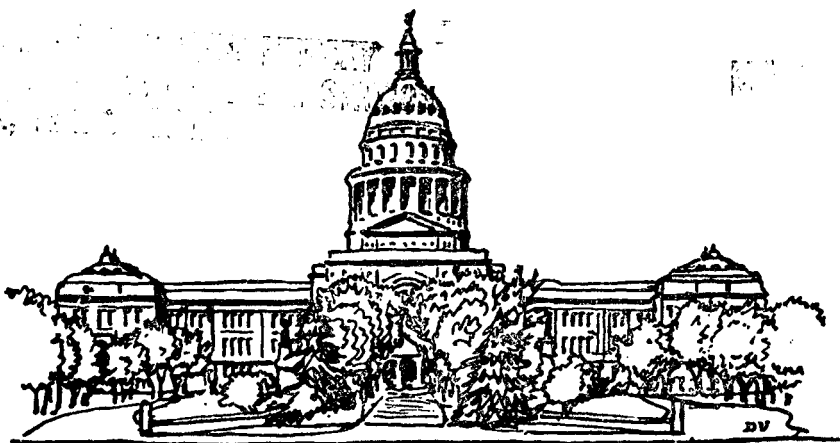


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THE
Sixty-first
TEXAS LEGISLATURE

A Review of Its Work



INSTITUTE OF PUBLIC AFFAIRS
THE UNIVERSITY OF TEXAS AT AUSTIN

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PUBLIC AFFAIRS SERIES NUMBER SEVENTY-NINE

*The Sixty-first
Texas Legislature:*

A REVIEW OF ITS WORK



INSTITUTE OF PUBLIC AFFAIRS

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Foreword

Since 1953 the Institute of Public Affairs has regularly published a brief summary of the biennial legislation considered and enacted by the Texas Legislature. In view of the continued usefulness of these summaries, the present volume has been prepared for the work of the general session and two called sessions of the Sixty-first Legislature which met in 1969.

This monograph is similar to its predecessors in that it includes legislation of state-wide general interest as enacted by the legislature, major legislation proposed but failing to pass, proposed constitutional amendments, gubernatorial vetoes, authorizations for interim studies, and special districts authorized or created by special act. A significant difference from preceding volumes in the series is the inclusion, for the first time, of all general laws passed by the legislature. To manage this kind of coverage within limitations of cost and space, major legislation is discussed in the text by major subject category, while the general laws of lesser significance are identified and summarized in tabular form only. No claim is made that the demarcation thus made between major and minor legislation will meet with universal approval by all users in every instance, but there is a broad consensus on what constituted the major items on the legislative agenda, and these are the ones which have been singled out for treatment in the textual portion of this summary. It should also be recognized that space permits only brief mention of the essence of most major laws which were enacted, and numerous details had to be omitted. Within the framework of these conditions and limitations, our intent has been to analyze and discuss legislation from an objective point of view, and neither the Institute nor the University takes any position for or against any of the legislative proposals and enactments which are included herein. All viewpoints and interpretations are those of the authors who accept the customary responsibility therefor.

Preparation of this study was a joint responsibility of Mr. Philip W. Barnes, Research Associate on the Institute staff, and Mr. C. Ed Davis, former Research Associate in the Institute and now a member of the faculty of Southwestern University, Georgetown, Texas. Their work was assisted and facilitated by several persons connected with the Office of the Governor, the Office of the Secretary of State, and the Texas Legislature. We express our thanks and appreciation for their assistance which, of course, does not make them responsible in any way for the material here presented.

LYNN F. ANDERSON
Acting Director

Austin, Texas
March, 1970

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THE SIXTY-FIRST TEXAS LEGISLATURE: A REVIEW OF ITS WORK

Introduction

The legislative chambers of representative government are arenas of conflict and concord, clashing wants and desires, and competing values. Certainly, this is an apt description of the regular and called sessions of the Sixty-first Texas Legislature. In these sessions, as has been true of most sessions in recent years, taxing and spending were the objects of the greatest contention. And in 1969, the Legislature locked in a debate that resulted in two called sessions; not since the Fifty-seventh Texas Legislature enacted the state's first general sales tax had the Capitol been the scene of such charged emotions and open political warfare.

The appropriations and taxation processes of Texas government are central features of legislative and executive responsibilities. In the appropriations bill that becomes law and in the tax measures that raise the necessary revenues, one can find concrete expressions of prevailing values. Because state government operates in an economy of scarcity, because there is never enough money to finance all that is both necessary and desirable, the appropriation and taxation legislation becomes the ultimate expression of who gets what and how much. Understandably, events of the Sixty-first Texas Legislature focused public attention on taxing and spending.

The Legislature's task, however, is more complex than "simple" funding. Among its basic responsibilities, in addition to taxing and spending, are regulating business and industry, establishing professional standards, defining crimes and prescribing punishments, protecting the common environment from air and water pollution, and regulating the use of the state's natural resources. In implementing its responsibilities, the Legislature considered over four thousand bills and resolutions. Of the 4,393 bills and resolutions introduced, 1,118 were enacted into law. Among these are many special and local laws. Although few of the special and local bills are distinctive, collectively they illustrate the scope and diversity of legislative responsibilities. Such bills are introduced to set salaries of certain officials in particular cities or counties, to regulate wildlife in selected areas, and to ratify the actions of subordinate units of government, among many other things. This study, however, is directed to the bills of a

TABLE I
NUMBER OF BILLS AND RESOLUTIONS INTRODUCED AND
ENACTED, SIXTY-FIRST LEGISLATURE,
REGULAR SESSION

| | Introduced | Enacted ¹ |
|--|------------|----------------------|
| House Bills (H.B.) | 1,487 | 576 |
| Senate Bills (S.B.) | 856 | 314 |
| House Concurrent Resolutions (H.C.R.) | 184 | 131 |
| House Joint Resolutions (H.J.R.) | 66 | 10 |
| House Simple Resolutions (H.S.R.) | 577 | * |
| Senate Concurrent Resolutions (S.C.R.) | 122 | 81 |
| Senate Joint Resolutions (S.J.R.) | 34 | 6 |
| Senate Simple Resolutions (S.R.) | 1,067 | * |

¹ Includes those vetoed by the Governor.

* Unavailable.

broader nature and a more general application. Over 175 bills representing the most significant legislation passed in this session are discussed in the body of the text. The remainder of the general laws enacted are catalogued in Appendix A, arranged there by subjects corresponding to the organization of the study. Table I presents the number of bills and resolutions introduced and enacted by both the Senate and House.

The Sixty-first Texas Legislature scored several major accomplishments. Among them were a significant teacher pay raise, a state employee pay raise, the Texas Tort Claims Act, and additional air and water pollution control legislation. Financing state government, however, became the major issue of both the regular and called sessions.

THE FIRST AND SECOND CALLED SESSIONS

Central to the political debate engulfing the Sixty-first Texas Legislature was the issue of annual appropriations. In order to understand events leading to the two called sessions, it is necessary to review briefly the origins of the dispute.

In recent years, various proposals have been made that the state government adopt a one-year appropriation and budget cycle in lieu of the traditional biennial plan; such proposals usually involved amending the Texas Constitution. But in 1967, then-Governor John Connally in an address to a joint session of the Sixtieth Texas Legislature suggested that that body adopt a one-year appropriation bill; the Governor proposed that he call a special session to finance the second year of the biennium. In this manner, new taxes could be postponed

until the called session. Moreover, the Governor believed that estimates of the state's revenue needs would be more accurate at the end of the first year than at the beginning of the biennium. The plan was adopted.

In one sense, the annual appropriation plan is attractive to legislators, particularly when new taxes are needed. The plan might permit legislators to postpone voting on new tax measures until the second year of the biennium; and, depending on when the Governor calls the special session, voting on new taxes might be postponed until after the primary elections the following year. So it was not unexpected that proposals to repeat the one-year plan were made during the regular session of the Sixty-first Legislature. But, as it was observed in a review of the work of the Sixtieth, whether the annual appropriation plan would be repeated would "be determined largely by the decisions of future governors and the responses of future legislatures."¹

During the regular session, Governor Preston Smith made it clear that he opposed annual sessions unless they were specifically sanctioned by the Texas Constitution, which would require a constitutional amendment. So the Governor sent a customary two-year appropriation measure to the Legislature. Lieutenant Governor Ben Barnes and House Speaker Gus Mutscher, however, agreed to an annual appropriation plan. In the closing days of the regular session, the Legislature passed and sent to the Governor an annual appropriation measure and a modest tax package designed to finance basic state services for a one-year period.

The Governor vetoed the one-year measure and the tax proposals, announcing his decision over state-wide television. At that time, Governor Smith issued his call to the Legislature and promised to call the Legislature into special session as often as necessary to pass and finance an adequate two-year appropriation bill. Promising full cooperation, the Legislature convened in July and began deliberations.

Decisions leading to the adoption of the appropriation bill were not as difficult as they may have appeared, for a two-year bill in the customary form is basically two one-year bills presented at the same time. Disagreement among the legislators in both houses over proposed state spending was resolved with relative ease. The passage of the tax measures, on the other hand, was difficult. As September neared, marking the end of the fiscal year and of available appropriations, it became increasingly clear that a second special session would be called.

In order to avoid a fiscal crisis at the beginning of the new biennium, the Legislature at the beginning of the second called session passed a two-month appropriation bill (H. B. 1) designed to finance the state's services during the

¹ *The Sixtieth Texas Legislature: A Review of its Work* (Austin: Institute of Public Affairs, The University of Texas, 1968), p. 4.

months of September and October. The two-month plan was abstracted from the two-year measure but could be certified by the Comptroller without new tax revenue.² The temporary measure was repealed when the final appropriation and taxation measure were passed. The apparent impasse over new taxes was resolved, and on September 9, 1969, the Senate approved the tax package and cleared the way for the Governor's signature.³

Other business conducted by the Sixty-first Texas Legislature in the second called session merits some attention. Governor Smith at the end of the regular session vetoed bills creating 27 new district courts. The Governor's vetoes were based on the constitutional requirement that the Governor be given a 20-day period to consider legislation passed during the closing days of the legislative session; the court bills were not sent to the Governor in time to allow him a full 20-day period.⁴ Disavowing a policy disagreement with the Legislature, Governor Smith promised to open the called session to new business after the customary biennial appropriation and taxation measures were enacted; this would permit the court bills to be reintroduced and passed in accordance with "accepted constitutional practice." So following the adoption of H. B. 2 and H. B. 4, the Governor opened the second called session to new business. The courts were created in an omnibus bill, the Judicial Districts Act of 1969 (S. B. 22).

Altogether, the second called session enacted 46 Senate and House bills, excluding the two appropriation acts. These are reviewed by subject area in subsequent sections of this study. However, one other event of the second called session should be mentioned at this point: the Texas Legislature formally reprimanded Commissioner of the General Land Office Jerry Sadler for his actions before that body in its investigation of the private recovery of ancient Spanish treasure discovered in submerged galleons off the Texas coast in the Gulf of Mexico. Without passing judgments on the merits of the Legislature's action, it would be inappropriate to omit this event in a review of its work. Prior to 1969, the Legislature had never issued a formal reprimand of a state official. As a result of the controversy, the Legislature in S. B. 58 adopted an Antiquities Code and created an Antiquities Committee to oversee and protect the state's interests in archeological phenomena. Among other provisions, the bill declares that all "sunken or abandoned pre-twentieth century ships and wrecks of the sea . . . are the sole property of the State of Texas. . . ." Hopefully, the disagreement giving rise to the Sadler affair will be avoided in the future.

² The Texas Constitution (Art. III, sec. 49a) requires the Comptroller of Public Accounts to "certify" that money will be available to pay every appropriation made by the Legislature.

³ Provisions of the tax bill are reviewed below in the section entitled, "Taxation, Finance, and Administration."

⁴ *Constitution of the State of Texas*, Art. IV, sec. 14.

Major Bills and Resolutions Enacted

APPROPRIATIONS

As the state's population increases and the public demands more and better governmental services, expenditures by state government also increase. To complete the last biennium and to finance estimated program commitments and financial needs for the 1969–1971 biennium, the Legislature appropriated \$6,203,122,464. Of this amount, \$5,872,941,317 was appropriated in the general appropriation bill (H. B. 2) and \$330,181,147 was appropriated in a number of separate bills for special purposes. Governor Smith vetoed a number of items in the general appropriation bill following the close of the second called session. The Governor's vetoes amounted to \$4,406,217. After this deduction, the general appropriation bill for the 1969–1971 biennium totaled \$5,868,535,100. The appropriation for fiscal 1969–1970 was \$2,899,752,014. For fiscal 1970–1971, the appropriation was \$2,968,783,086. Tables II and III present a breakdown of these proposed expenditures. Information in both tables is presented by the five appropriation categories that customarily appear in the general appropriation act.

As shown in Table II, Governor Smith's vetoes were concentrated in three of the five articles. Neither the Judiciary nor the Legislature suffered item vetoes. The \$2,900,000 veto in Article II—Public Health, Hospitals, Special Schools, and Youth Institutions—was a single item. The appropriation was made for the construction of a Neuropsychiatric Institute by the Department of Mental Health and Mental Retardation. In his veto message, Governor Smith noted that there was considerable disagreement among parties interested in the Neuropsychiatric Institute regarding its proper operation and that the expected costs of the project now exceeded available revenues by about one-third.

The Governor's Article III vetoes totaled \$971,217, as shown in Table II. Included in this amount was an appropriation of \$225,000 for each year of the biennium for the Attorney General's Office for the express purpose of paying professional fees and services arising from the enforcement of the Tort Claims Act; the appropriation was to cover the expenses of attorneys contracted to represent the state in special cases. Governor Smith objected to the practice of using private attorneys to represent the state, but vetoed only the second year of the appropriation so that then-existing commitments could be honored and so that the Attorney General would have time to provide for "an orderly assimilation of this work load" by full-time assistant attorneys general.

The Governor also vetoed four items from the appropriation for the Parks and Wildlife Department. They were \$25,000 for Longhorn Cavern State Park, \$50,000 for a water well at Lyndon Baines Johnson State Park, \$172,000 for

TABLE II
SUMMARY OF APPROPRIATIONS AND ITEMS VETOED
GENERAL APPROPRIATIONS BILL
STATE OF TEXAS*
1969-1971 Biennium

| Functions/Agencies | Original Appropriations | Amounts Vetoed | Final Appropriations |
|---|----------------------------|--------------------|-------------------------|
| Judiciary | \$ 16,233,963 | \$ | \$ 16,233,963 |
| Public Health, Hospitals, Special Schools and Youth Institutions | 309,303,704 | 2,900,000 | 306,403,704 |
| Executive, Legislative, and Administrative Depart- ments and Agencies | 2,846,409,333 | 971,217 | 2,845,438,116 |
| Education | 2,680,956,210 | 535,000 | 2,680,421,210 |
| Legislature | 20,038,107 | | 20,038,107 |
| TOTALS | \$5,872,941,317 | \$4,406,217 | \$5,868,535,100 |

* These totals do not reflect appropriations made by riders to the general appropriations bill.

TABLE III
ALL FUNDS APPROPRIATIONS*
GENERAL APPROPRIATIONS BILL
STATE OF TEXAS
Fiscal Years 1969-70 and 1970-71

| Functions/Agencies | 1969-70 | 1970-71 |
|--|------------------------|------------------------|
| Judiciary | \$ 8,110,150 | \$ 8,123,813 |
| Public Health, Hospitals, Special Schools, and Youth Institutions | 157,077,863 | 149,325,841 |
| Executive, Legislative, and Adminis- trative Departments and Agencies | 1,397,671,559 | 1,447,766,557 |
| Education | 1,327,484,146 | 1,352,937,064 |
| Legislature | 9,408,296 | 10,629,811 |
| ANNUAL TOTALS | \$2,899,752,014 | \$2,968,783,086 |
| BIENNIAL TOTALS | | \$5,868,535,100 |

* The amounts shown in this table are net after deduction of items vetoed by the Governor; they do not reflect appropriations made by riders to the general appropriations bill.

land acquisition in Hardeman and/or Motley counties, and \$207,500 for the acquisition of land and the development of Port Lavaca Causeway State Park. In his message, the Governor observed that three of the four appropriations had not been requested by the Department and had not appeared in the Senate or House appropriation bills; the items were added in conference committee. The proposed facility at Port Lavaca was, in the Governor's words, "essentially a city park" and should not be operated with state funds. Moreover, the proposal failed to conform to the criteria established in the state's comprehensive park plan. All of the items vetoed in the appropriation for the Parks and Wildlife Department were one-year appropriations for fiscal 1969-1970.

Another of the Governor's Article III vetoes was a \$29,000 appropriation for the Red River Authority (\$14,500 for each year of the biennium). The money was earmarked for the completion of a Master Plan for water resource development of the Texas portion of the Red River Authority. The Governor believed that the responsibility for water resource planning belongs to the Water Development Board.

The last Article III veto was a \$262,717 item from the appropriation for the Department of Public Safety for the construction of a subdistrict headquarters building in McAllen. The Governor's veto proclamation noted that the money had not been requested by the Department of Public Safety and that the facility could not be used without reallocating the Department's personnel. This item was the only veto from funds other than General Revenue.

In Article IV, Education, the Governor vetoed four items. The Legislature had provided \$250,000 for repairing and air conditioning buildings belonging to Texas A&M University. Governor Smith, noting that the money had not been requested by the school, objected to the expenditure because the cost of repairs exceeded the worth of the buildings. Similarly, the Governor vetoed an unrequested \$60,000 appropriation for a fish raising facility at Stephen F. Austin State University. A biennial appropriation totaling \$65,000 for environmental pollution control studies and practices at Prairie View Agricultural and Mechanical College also failed of gubernatorial approval. Among other objections, the Governor noted that the item was unrequested by the institution and appeared only in the conference committee's report on the general appropriations bill. Finally, Governor Smith vetoed a \$160,000 appropriation for the Texas Maritime Academy earmarked for the development of Pelican Island. The Governor was not convinced that the proposed development was necessary.

Attached to the Governor's veto proclamation were two "statements" setting forth his views on two provisions of the bill. The first was a statement on the appropriation to the Water Rights Commission for research and development relating to saline and brackish water of the state. The Governor, agreeing that the work described in the item was necessary, objected that it was to be done by the Water Rights Commission. The Commission, the Governor argued, does

not have the statutory responsibility for water planning, research, or development. Accordingly, the Governor expressed his intention to transfer the funds appropriated in the item to the Water Development Board.

The second statement concerned a rider to the appropriations for the Department of Public Safety. The rider authorized the Department to expend funds, on a contractual basis, for the policing of turnpikes in the state. The Governor pointed out that the Attorney General had held the same rider in the 1968 appropriations act invalid. He then instructed the Comptroller of Public Accounts and the Public Safety Commission to disregard the rider.

Governor Smith, departing from recent gubernatorial practice, did not veto any riders accompanying the appropriations bill, and this accounts, in part, for his statements following the text of his veto proclamations. In refusing to veto rider provisions, the Governor has strong legal precedent, for the Texas courts have long held that the Governor "does not have the power to reduce items or to eliminate qualifications or directions for their expenditures placed on appropriations."⁵ Former Governor John Connally regularly exercised the item veto to negate rider provisions, and did so with apparent impunity. Since the authority to veto riders is (or would be) an important element of the Governor's executive power, this issue demands further judicial clarification.

State government in Texas is financed through a complex structure of general and special funds. All of the state's income—in taxes, fees, and federal grants—are housed in specified funds. The General Revenue Fund, although representing only 21.2 per cent of the state's proposed expenditures, is the major source of legislative and executive discretion in allocating money resources among competing programs. Consequently, it is not unusual for the Governor to examine expenditures from the general fund with greater discernment than those from special funds. A line item veto of an appropriation from the general fund frees that amount of money for transfer to another appropriation or for a later appropriation for a different program. This is not true of the special funds; money earmarked for selected purposes, either by specific constitutional provision or by legislative direction, cannot be spent elsewhere.

Customarily, only the Legislature and Judiciary, Articles I and VI, are financed wholly from the General Revenue Fund. Of the appropriations in the general act for Article II agencies, 88.5 per cent are from general revenue, while 11.5 per cent are from special funds. The reverse is true for Article III—Executive, Legislative, and Administrative Departments and Agencies.⁶ Gen-

⁵ Fred Gantt, Jr., *The Chief Executive in Texas: A Study in Gubernatorial Leadership* (Austin: The University of Texas Press, 1964), p. 185. See *Fulmore v. Lane*, 140 S.W. 405 (1911).

⁶ The term "Legislative" appears in this Article because this section of the bill includes the State Auditor's Office, a full-time legislative agency. The Legislative Council, the Legislative Budget Board, and other legislative agencies are provided for in Article VI.

eral fund appropriations for Article III are only 7.4 per cent of the total appropriation; other funds represent 92.6 per cent of the total.

The Available School Fund and the Minimum Foundation School Fund support most state expenditures for elementary and secondary education, and they represent a sizable percentage of Article IV appropriations. Other fund appropriations in Article IV total 72.9 per cent; general fund appropriations total 27.1 per cent. Most Article IV general fund expenditures are for colleges and universities. In total, General Revenue Fund appropriations for the 1969-1971 biennium represent 21.2 per cent of all appropriations in the general appropriations bill. Dollar amounts of General Revenue Fund appropriations are given in Table IV.

During each legislative session there are occasions for a number of special appropriations. Such appropriations are made usually by special legislation but are found also in riders to the general appropriations bill and in constitutional amendments. Table V lists these appropriations made by the Sixty-first Texas Legislature. Most of these items, such as the appropriation in S. B. 22 for the operation of 27 new district courts, represent a basic increase in the total level of state spending and will be reflected in the general appropriations act in the next and subsequent bienniums. Some of the items, however, are one-time expenditures and are not public commitments to new levels of state spending.

TABLE IV
GENERAL REVENUE FUND APPROPRIATIONS*
GENERAL APPROPRIATIONS BILL
STATE OF TEXAS
Fiscal Years 1969-70 and 1970-71

| Functions/Agencies | 1969-70 | 1970-71 |
|--|----------------------|-------------------------------|
| Judiciary | \$ 8,110,150 | \$ 8,123,813 |
| Public Health, Hospitals, Special Schools, and Youth Institutions | 139,616,389 | 131,356,161 |
| Executive, Legislative, and Administra- tive Departments and Agencies | 103,436,818 | 105,710,934 |
| Education | 362,641,463 | 364,309,698 |
| Legislature | 9,408,296 | 10,629,811 |
| ANNUAL TOTALS | <u>\$623,213,116</u> | <u>\$ 620,130,417</u> |
| BIENNIAL TOTAL | | <u><u>\$1,243,343,533</u></u> |

* The amounts shown in this table are net after deduction of items vetoed by the Governor; they do not include appropriations made by riders to the general appropriations bill.

It should be noted that there is another class of special appropriations: emergency measures passed to finance various state operations for the remainder of the then-current biennium. The Sixty-first Legislature provided \$1,886,078 in such appropriations to complete the 1967-69 biennium. These measures were not appropriated for the 1969-71 biennium and therefore are not reflected in Table V.

TAXATION, FINANCE, AND ADMINISTRATION

The passage of the appropriations bill was simple and expedient after the second called session passed a \$356.4 million tax package. H.B. 4 is the final version of a much-rewritten tax measure. Table VI contains each of the new tax items and the amount of money each is estimated to produce. Among the major revenue-producing items are an increase in the General Sales Tax from 3 to 3.5 per cent and the inclusion of beer and liquor under the general sales excise. This means that packaged alcoholic beverages are taxed under two excise schedules: the general sales tax and the long-standing selective sales tax. These changes will bring the state an estimated \$119.2 million over the remaining months of the biennium. Because of the many versions of the tax bill which were introduced, considered, and rejected during the two called sessions, there was much confusion in the public's mind about the character of the changes in the general sales tax. Many people thought that some or all of the exemptions from the sales tax had been removed and, accordingly, items such as medicine, tobacco, rent, and food might be taxed. To emphasize that this was not done, the Legislature re-enacted by S.B. 72 the exemptions existing in the law before the tax bill was passed.

As indicated by Table VI there were other measures passed which increased selective sales taxes. The tax on cigarettes was raised from 11 to 15.5 cents per package, and a 5 cent "service fee" was imposed on each ounce of alcoholic beverage served in a private club or on an airline. The income shown in Table V for this item includes revenue from a \$1,000 "airline beverage permit," an annual permit secured from the state for the privilege of serving mixed drinks on commercial airplanes.

Next to the increase in the general sales tax and the increase in the cigarette tax, the item in H.B. 4 estimated to yield the greatest revenue is the change in the allocation formula for the franchise tax. The formula is expected as a percentage of "taxable capital" of the liable corporations. The Legislature has defined this percentage as the "relationship which the gross receipts from its business done in Texas bears to the total gross receipts of the Corporation from its entire business." In other words, the greater the percentage of its business done in Texas, the greater the corporation's franchise tax. By altering the definition of gross receipts, the Legislature can change the amount of the franchise

TABLE V
SPECIAL APPROPRIATIONS
Fiscal Years 1969-70 and 1970-71

| Bill Number | Purpose | Amount |
|----------------|---|---------------|
| H. B. 2. | (Rider) Office of the Governor, Traffic Safety Program | \$ 6,600,000 |
| H. B. 2. | (Rider) Department of Public Safety, Governor's airplane | 900,000 |
| H. B. 161. | Preschool program for non-English speaking children | 1,486,273* |
| H. B. 240. | Committee to study the Minimum Foundation Program | 25,000 |
| H. B. 240. | Teacher pay increases | 253,877,600* |
| H. B. 263. | Comprehensive vocational education program | 7,371,880* |
| H. B. 276. | Teacher sick leave programs | 3,204,990* |
| H. B. 434. | County-wide day schools for the deaf | 560,300* |
| H. B. 613. | Tri-semester school programs | 1,654,400* |
| H. B. 705. | Special day schools for the deaf in certain counties | 150,100* |
| H. B. 897. | Contracting with private schools for the deaf | 214,500* |
| S. B. 8. | Student teaching centers | 2,100,000* |
| S. B. 22. | Operating 27 new district courts | 1,222,000 |
| S. B. 35. | Department of Corrections, school programs | 2,810,000* |
| S. B. 73. | Western Information Network Association | 100,000 |
| S. B. 75. | Antiquities Committee | 50,000 |
| S. B. 112. | Special education for pregnant girls | 280,320* |
| S. B. 230. | Comprehensive special education | 8,989,800* |
| S. B. 635. | Transportation for exceptional children | 2,750,000* |
| S. B. 684. | Computer service for public school districts | 2,444,700* |
| S. B. 701. | Bicentennial Commission | 25,000 |
| S. B. 856. | Governor's Committee on Human Relations | 49,284 |
| S. J. R. 8. | Constitutional amendment, welfare | 30,000,000† |
| ‡ | Water development bond interest | 3,315,000 |
| TOTAL | | \$330,181,147 |

* Amounts designated by an asterisk represent estimates of appropriations reported by the Legislative Budget Board based on estimated requirements of substantive legislation. All other amounts are specifically stated in the acts shown.

† The amendment authorized an increased expenditure of \$40,000,000.

‡ Automatic appropriation pursuant to the *Constitution of the State of Texas*, Art. III, sec. 49d.

tax. In this case, the Legislature chose to expand the definition to include destination sales or imports into Texas, i.e., the "sales of tangible personal property when the property is delivered or shipped to a purchaser within the state . . ." For purposes of defining gross receipts, the Legislature increased the amount of business out-of-state corporations do in Texas, thereby increasing their taxable capital and, therefore, increasing their tax liability. As indicated in Table VI, the provision is expected to yield \$84.6 million.

There was also a second change in the franchise tax. H.B. 4 raises the *rate* of the tax placed on the amount of taxable capital held by each corporation. The additional tax is 50 cents per \$1,000 of taxable capital for the years 1969–1972. In 1972, the tax will be reduced to 25 cents per \$1,000 of taxable capital. This provision is expected to raise \$38.9 million.

Although no major tax measures were enacted during the regular session of the Sixty-first Legislature, a number of minor changes were made in the state's tax laws. Responding to a growing consumer preference, the Legislature included within the definition of "property," for purposes of taxation, trailers or mobile homes, except those located within an assessing jurisdiction for less than 60 days or which are unoccupied and not for sale. This measure, H.B.

TABLE VI
ESTIMATES OF NEW TAX REVENUE
BY THE COMPTROLLER OF PUBLIC ACCOUNTS*
STATE OF TEXAS
1969–1971 Biennium

| Tax Measure | Estimated Revenue |
|--|----------------------|
| Increasing the general sales tax from 3.0 to 3.25 per cent | \$ 79,641,663 |
| Including the sale of packaged alcoholic beverages under the general sales tax | 39,600,000 |
| Special service fee of five cents per ounce on alcoholic beverages sold in private clubs and on commercial airlines | 13,224,691 |
| Increasing the natural gas tax from 7.0 to 7.5 per cent | 9,100,000 |
| Increasing the franchise tax from \$2.75 per \$1,000 of taxable capital to \$3.25 per \$1,000 of taxable capital | 38,950,538 |
| Including destination sales in the formula for the computation of the franchise tax | 84,616,880 |
| Increasing the cigarette tax from eleven to fifteen and one-half cents per package | 91,282,236 |
| TOTAL | \$356,416,008 |

* Source: Office of the Comptroller of Public Accounts.

1133, was passed in recognition of the fact that an increasing number of people are choosing to live in mobile homes. Previously, governmental jurisdictions were extending services to mobile home residents without realizing tax income therefrom. In similar measures, the Legislature by S.B. 202 made tangible personal property held under a lease from a banking corporation liable for ad valorem taxation. And by S.B. 373, the Legislature shifted the liability of certain property owned by insurance companies from the state ad valorem tax to county and municipal taxes.

As in other legislative sessions, the Legislature made numerous minor adjustments in the tax exemptions extended to certain classifications of property. H.B. 1289 includes hospital parking facilities in that property belonging to institutions of purely public charity and thus not subject to ad valorem taxation. Under certain circumstances, real and personal property used for nursing care or housing for the low income elderly is exempt from taxation by the provisions of S.B. 39. S.B. 118 exempts from taxation the property of garden club organizations. And S.B. 54 exempts from taxation all real and personal property of non-profit water supply corporations necessary to the accomplishment of the organizations' purposes.

Other provisions, also of limited scope, clarify or alter the law governing the administration of taxes. H.B. 129, for example, provides that a contractor is liable for the sales tax only if a lump-sum price covering material and services is included in the contract. H.B. 10 reduces to one year the time that must pass between elections on propositions to adopt local sales and use taxes. And H.B. 1176 revises the imposition, collection, administration, and enforcement of the tax on diesel fuel and liquified gas. Other similar changes in the state's tax laws are found in Appendix A.

Finance. Distinctions between financial administration and tax administration are sometimes difficult to make. Nevertheless, in each legislative session there are a number of bills making some changes in the procedures or powers of various state agencies in the administration of the public fisc. S.B. 20, passed in the regular session, grants "any public agency" the right to issue securities at a maximum rate of 6.5 per cent. Previously, the law permitted certain agencies to issue securities at a rate not to exceed 5 per cent. However, this bill was amended during the second called session by S.B. 55; this measure removed the express 6.5 per cent limitation, subject to certain exceptions. Both changes were made in frank recognition of the "tight money" market prevailing across the nation. S.B. 519 amends the \$75 million park bond authorization to allow the Parks and Wildlife Commission additional discretion with regard to the funds. S.B. 675 and S.B. 676 authorize the governing body of any issuing unit to refund all or any part of its outstanding bonds by issuing refunding bonds. Finally, H.B. 1217 provides for the allocation among various funds of interest derived from state money held in time deposits.

Administration. The importance of the appropriations and taxation processes are obvious to most people, for few if any state activities could be sustained without tax money. On the other hand, many people fail to recognize the extent of general legislative control over administration. A relatively large number of bills pass during each legislative session making various changes or adjustments in the law governing the administration of the public's business. This type of legislative control can be broad and flexible; at other times, such control is quite specific, intended for one purpose only.

Some bills in this category were passed in response to federal law. S.B. 82, for example, authorizes the Texas Highway Commission to formulate rules to provide for the payment of relocation expenses in connection with acquiring right-of-way. This legislation was passed in order that Texas might benefit from changes in the federal law governing the administration of federally-financed highway construction. Similarly, H.B. 1219 authorizes the Governor's office to accept grants from the federal government and to arrange planning assistance for political subdivisions. In a related measure, S.B. 547, the Legislature redefined "regional planning commission," among other terms, and provided a formula for the administration of funds. Both these measures reflect the increasing importance of the Governor's office in the administration of certain federal grant programs.

Other bills containing major provisions affecting general state administration include H.B. 738, the Texas Mass Transportation Act. The Commission created by the Act is to be a geographically balanced group of Texas citizens with the goal of fostering and assisting the development of public mass transportation, both intracity and intercity. The Commission is to recommend the legislation it feels necessary and is to represent the state before federal and state agencies. The Commission's director is charged with formulating a comprehensive master plan for public mass transportation development.

S.B. 10 redefines the powers of the Commission on Law Enforcement Officers Standards and Education. The Commission may now certify persons qualified to be peace officers and law enforcement instructors, and institutions and facilities for peace officer training; establish minimum standards for courses and programs for peace officer training; revoke prior approval of certified institutions; and operate facilities for officer training. After September 1, 1970, a prospective peace officer must complete a satisfactory training program before his appointment.

S.B. 294 directs the State Auditor to establish within his office a division known as the Administrative Services Division. This office is to advise and assist all state agencies in procedures regarding the processing of mail, records management, microfilming, information retrieval, supply storage, offset reproduction, document copying, and other management programs.

The Governor's Committee on Human Relations, created by S.B. 307, is a group of 50 citizens who have demonstrated their interest in the promotion

and attainment of ideals of dignity and equality of opportunity for all members of society. Unless extended by legislation, the committee expires on February 1, 1973; before then, it is to recommend to the Governor programs of action designed to promote a better understanding and relationship among various ethnic and social groups in Texas.

Passed because of uncertainty over municipal power absent express authority, H.B. 431 gives to the Governor and any city or town the power to declare a state of emergency under conditions of riot or calamity. Among other things that may be regulated under these situations are hours of curfew, the consumption of alcohol, and the possession and use of firearms. All necessary rules may be promulgated to meet the emergency, and all law enforcement bodies are directed to cooperate. Violation of the emergency regulations may result in a \$200 fine and 60 days in jail.

The State Employees Training Act of 1969 (S.B. 653) authorizes the various departments of state government to use available public funds to provide training and education for administrators and employees. This opportunity is limited to situations where training is related to the current or prospective duty assignment of the employee. The agencies are to make regulations concerning eligibility, subject to approval in writing by the Governor.

One of the most important measures passed by the Sixty-first Texas Legislature is the Texas Tort Claims Act (H.B. 456). The Act holds every governmental unit in the state liable for money damages "for personal injuries or death when proximately caused by the negligence or wrongful act or omission of any officer or employee" if the employee was "acting with the scope of his employment," if the accident arose from the "operation or use of a motor-driven vehicle and motor-driven equipment" (excluding floodgate, water release, and medical equipment), and if the circumstances of the accident would make the employee personally liable under state law. Units are liable for personal injuries or death when caused by some condition or use of real or personal tangible property that would make a private person, under the same circumstances, liable to a private licensee. Punitive or exemplary damages are prohibited, and liability limits are set at \$100,000 per person and \$300,000 per accident. To the extent that liability is thus created, the Tort Claims Act expressly waives "immunity of the sovereign to suit." Among the more significant exemptions from tort liability retained by H.B. 456 are activities of the National Guard, the State Militia, or the Texas State Guard, while on lawful active duty; the failure of a unit to perform an act when not required to do so by law; action in response to emergency situations; any intentional tort; and the theory of attractive nuisance.⁷

⁷ For an extended discussion of the Act, see C. Ed Davis, "Waiver of an Ancient Doctrine: The Texas Tort Claims Act," *Public Affairs Comment*, XV (September, 1969), 1-4.

Texas state government does not pay overtime wages. Employees are entitled to compensatory time for work performed in excess of that called for in their job descriptions. However, the U.S. Supreme Court in a recent decision has held that certain state employees are subject to the federal Fair Labor Standards Act and are thus entitled to overtime at a rate of one and one-half time for all work in excess of 40 hours a week. S.B. 651 was passed in recognition of this fact. The bill directs affected agencies to provide compensatory time at a rate of one and one-half times for all overtime worked by each employee.

Aside from the major provisions noted in the foregoing paragraphs, most of the bills passed in this legislative session dealing with general administration are of a narrow scope. Some of them create minor boards or commissions, some transfer land or other assets between state agencies, and some authorize an agency to acquire property or to undertake a specific activity. Examples include H.B. 54, creating the Chester W. Nimitz Memorial Museum Commission; H.B. 481, transferring control of the Institute of Texan Cultures, the Texas State Exhibits Building at Hemisfair 1968, and all related lands and improvements to the Board of Regents of The University of Texas System; and H.B. 260, authorizing the Texas State Library and Historical Commission to establish and develop a state library system. Other bills in this category are found in Appendix A.

Finally, the Legislature repealed all legal expressions of segregation.⁸ Although all of the repealed provisions were already constitutionally infirm, either by virtue of express constitutional provision or by conflict with federal law, the doctrines of apartheid have no place on the statute books of a modern state. And so an archaic social institution is put to rest, at least as that institution is expressed in Texas law.

REGULATION OF BUSINESS AND PROFESSIONS

General Business Regulation. While Texas law had previously placed the responsibility for supervising the licensing of private employment agencies and operators under the direction of the Commissioner of the Bureau of Labor Statistics, H.B. 169 creates the Texas Private Employment Agency Regulatory Board. The nine member, Governor-appointed board will maintain its executive office in the Bureau of Labor Statistics and will have full control over private employment agencies and operators after December 31, 1969.

The Uniform Code for Mobile Homes (S.B. 153) meets the United States of America Standards Institute regulations set up for mobile home electrical, plumbing, and heating systems. All such systems installed more than six months

⁸ H. B. 250-258, 808, 820, 914; S. B. 516.

after the effective date of the act must meet the prescribed standards, and a manufacturer or dealer in mobile homes must be licensed. The Bureau of Labor Statistics is to enforce the code, and failure to comply with its terms may result in a penalty of up to \$100 per day.

H.B. 37 revises Texas' prohibition against deceptive trade practices. Whereas the old law failed to specify just who might not engage in such practices, the new act makes clear that "person" means "natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity." The Consumer Credit Commissioner is authorized to require such reports as are necessary to ensure compliance, and the Attorney General is authorized to bring suit on his own motion on behalf of the state. "Insurance business" is exempted from the law, as are the advertising media, unless, in the latter case, the media knew of the falseness of the practice. The act includes a provision for voluntary compliance and provides a penalty of one year in county jail, a fine of \$5,000, or both.

Deceptive trade practices are further regulated by H. B. 86, which specifies the conditions under which drawings, guessing, or matching games of chance may be promoted in connection with the sale of anything of value. Such games are prohibited if the participants' chances of winning are misrepresented in any way and if the participants are not informed of the geographical area in which the contest is to be conducted, the nature of the prize to be made available, and the minimum number and amount of gratuities to be offered. Nor may the distributor "manipulate or rig" a contest by the dispersal of prizes to predetermined locations or coerce any retailer or dealer to make use of the games. Upon request, the sponsor of any contest must make available to the Consumer Credit Commissioner a list of all persons who won a prize valued at \$25 or more, a description of the prizes, and the dates the prizes were delivered.

S. B. 357 protects purchases of residential property under executory contracts by establishing a procedure to regulate forfeitures and acceleration of such contracts. Forfeiture may now be enforced only after due notice of the seller's intentions has been given. A grace period of 15 days is granted when the purchaser has paid less than 10 per cent of the sale price; 30 days when he has paid from 10 per cent to 20 per cent; and 60 days when he has paid 20 per cent or more. A purchaser may avoid forfeiture by complying with the terms of the contract by the end of the deadline.

With an eye toward public safety, H. B. 1070 regulates the storage, handling, and use of flammable liquids at retail service stations. The bill itself gives few specific guidelines, other than setting a maximum gross capacity limit of 60 gallons for tanks above ground. The Board of Insurance is authorized to promulgate rules governing this aspect of the petroleum industry, so long as these rules are in substantial conformity with the standards of the National Fire Protection Association. Regulation is to be "reasonable" and is to allow existing

facilities to remain in use so long as they do not constitute a distinct hazard. No rule is to be promulgated without a public hearing, and the size, weight, and load of delivery vehicles are not to be regulated other than in accordance with standard provisions of motor vehicle and highway law. Penalty for criminal violation of the law is a maximum fine of \$1,000; civil penalty runs to a maximum of \$100 per day. Anyone affected by the new regulations may sue in district court in Travis County to test the validity of the rule or its application to him.

Essentially a health measure, the Texas Renderers' Licensing Act (S. B. 150) sets forth a system of licensing and regulating the business of collecting, hauling, transferring or storing, and rendering dead animal bodies. "Rendering" includes burying, burning, cooking, and processing. The Health Department is designated the enforcement agency, and the Commissioner of Health is instructed to formulate the rules and regulations necessary to accomplish the purposes of the Act. In addition, S. B. 150 contains specific requirements that must be met by businesses operating rendering facilities. These include minimum sanitary requirements and, for new construction, minimum construction requirements. Moreover, those desiring to construct new facilities to be used as rendering plants must secure a building or construction permit from the Health Department. The law requires regular periodic inspection.

Agriculture. H. B. 764 amends the powers and duties of commodity producers boards. Disease and insect control are added to the programs the boards may undertake, "planting seeds" are added to the definition of "agricultural commodity," and the meaning of "processor" is expanded to include one who processes planting seeds. The one per cent market value on proposed agricultural check-off elections is dropped: the ballot will now specify the appropriate figure. Hours and the location of polling places are added to the information that must now be publicized prior to an election, and farmers, tenants, and sharecroppers may vote only if they, as producers of commodities, would have to pay the assessment involved in the election. H. B. 764 prescribes the method for collecting any approved assessment, provides for an increase of assessment on election, and prohibits the use of assessed funds for political activity. Rice, flax, broiler-fryers, and cattle are exempted from the bill, and each referendum may include additional exemptions. In advance of the expenditure of any funds, the boards must prepare a budget to be filed with and approved by the Commissioner of Agriculture; boards must also submit to the commissioner an annual report itemizing all income and expenditures and describing all activities.

The Texas Grain Warehouse Act (H. B. 856) authorizes the Commissioner of Agriculture to investigate the storing, shipping, and handling of grain. The operator of a warehouse must secure a license, which requires casualty insurance and a bond executed in favor of the state. Upon request, warehousemen must make reports to the commissioner, and they must permit the commissioner's representatives to enter and inspect the licensed premises. Warehouse-

men have the further duty of issuing tickets upon receipt of grain and keeping in a safe place a complete and accurate record of their business transactions. The commissioner may seek an injunction against any operating warehouse and may suspend or revoke a license when he determines that there has been a violation of the law. Minor offenses under the law are punishable by fines ranging up to \$500; issuing a receipt while knowing that grain has not been received carries a penalty of up to \$5,000 and five years in prison, as do other major offenses. H. B. 856 does not apply to any warehouse covered by a license issued under the United States Warehouse Act or to an individual producer-owner who does not receive grain for storage or handling for hire.

Under the Texas Meat and Poultry Inspection Act (S. B. 28), the Commissioner of Health is directed to enforce numerous regulations to ensure sanitary conditions in the processing of meat for human consumption. In addition, the State Department of Health is authorized to cooperate with the United States Secretary of Agriculture under the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act. Impeding the performance of official duty under the Act may result in a fine of up to \$1,000 and a term in county jail from 30 days to two years. Any violation of the Act carries a maximum fine of \$1,000 and imprisonment for not more than one year. If the violation was done with the intent to defraud, the guilty party is subject to a fine of \$10,000 and three years in prison. The Texas Meat and Poultry Inspection Act is intended to apply only to the extent of the federal acts.

Alcoholic Beverages: Sale and Consumption. As was hoped by those who observed the investigations of the Liquor Control Board in 1968, the Sixty-first Legislature made a number of changes in the laws regulating the sale and consumption of alcoholic beverages in Texas. H. B. 222 provides new hours for the possession or consumption of alcohol in a public place, for selling or offering beer for sale, and for permitting service or consumption of alcohol in private clubs. In recognition of the tighter controls imposed by the new law, the Act authorizes a Retail Dealer's On-Premise Late Hours Permit and a Private Club Late Hours Permit.

Research by law enforcement officers and others has revealed that one of the most corrupting influences on the retail liquor industry is the often-questionable relationship between that industry and owners of coin-operated vending machines. H. B. 579 is designed to correct this situation. Under this Act the business of providing music and skill or coin-operated machines is tightly licensed, and a written contract is required before such a machine may be placed on the premises of a retail liquor distributor. Except as provided by H. B. 579, no one in the vending machine business may have a financial interest in selling or serving alcohol. To protect liquor retailers from entangling financial burdens, the Consumer Credit Commissioner is authorized to make regulations governing credit extended by machine owners to tavern keepers.

Subterfuge ownership of premises and unlawful use of permits are the targets

of H. B. 1440. Under this act no "premise" may be smaller than the area specifically defined in the Liquor Control Act, and a permittee is required to maintain exclusive occupancy and control of the entire licensed premise in all phases of the storage and sale of alcohol. Unless accompanied by a legally responsible adult, no person under 21 is to be allowed on the premises. The Act prohibits the licensing of only a portion of a building, but this provision does not apply to hotels. H. B. 1440 also allows a package store owner injured by another in violation of the Act to bring suit for injunctive relief.

S. B. 27 revises the Texas Liquor Control Act in a number of ways. For taxing purposes, distilled spirits will now be under a reporting system, rather than making use of revenue stamps. Sack boys 16 and older will be allowed to handle beer and wine. Fines of up to \$200, with stronger penalties for repeated offenses, are authorized for the charges of minor in possession of alcohol, making alcohol available to minors, and illegal consumption of alcohol. The parents or guardians of minors charged in violation of this Act are required to appear in court with their dependent children when the charges are heard, and for the first time a penalty is provided for the use of false identification when purchasing alcoholic beverages.

A number of lesser revisions were also made in Texas' liquor laws. H. B. 781 redefines the "pool system" used in private clubs and stipulates that an application for a Retail Dealer's License where beer is to be consumed on the premises may be refused if free toilets are not furnished. H. B. 1078 makes it lawful for any person in an area wet for the limited purpose of the sale of beer, or the sale of beer and wine, to secure a Wholesaler's Permit and to exercise the rights and privileges of such permit holders. H. B. 1470 adds a holder of a Distiller's permit to those who may not be denied a license renewal simply because of a local dry option vote and adds bottling to those activities which such a permit allows. By S. B. 185, one whose liquor permit has been refused, cancelled, or suspended may now appeal such action to the district court having jurisdiction over the county in which the permit is being sought, rather than his county of residence. Finally, H. B. 379 changes the name of the Texas Liquor Control Board to the Texas Alcoholic Beverage Commission.

The Regulation of Services and Professions. The Texas State Board of Landscape Architects, created by H. B. 111, consists of three experienced architects appointed by the Governor. The Board, which will receive an expense allowance for carrying out its official duties, is to examine prospective landscape architects and is empowered to grant and receive certificates of registration. The fee for a licensing examination is \$50, and annual registration certificates will command a fee set by the Board within statutory limits. Among others exempted from the Act are registered professional engineers, building designers, land surveyors, and nurserymen.

S. B. 164 creates the Private Detectives, Private Investigators, Private Patrolmen, Private Guards and Managers Board. The Act contains the usual features

authorizing the Board's organization and powers; it also includes a detailed list of requirements that applicants for licensing must meet. Operatives are specifically restricted to the functions authorized by their own class of license, and the Board may revoke a license for a number of reasons, including character flaws. The provision for appeal to the courts from action by the Board is nonseverable—if that section is held unconstitutional, the entire Act falls.

The Commission on Fire Protection Personnel Standards and Education is established by S. B. 269. Charged with making recommendations to the Legislature in regard to minimum standards for fire protection personnel appointed to positions in municipal fire departments, the commission may also certify training programs and instructors, direct research, and accept gifts and grants. The authority of the commission extends only to municipalities where the fire department is fully paid.

S. B. 589 authorizes the establishment and regulation of corporations rendering a professional service. The new Texas Professional Corporation Act outlines the powers of businesses incorporating under its terms and provides for shares in the corporations to be issued only to individuals authorized to render the same service. The earlier Texas Business Corporation Act still applies, except to the extent that the two laws conflict.

The Psychologists Certification and Licensing Act (S. B. 667) creates the Texas State Board of Examiners of Psychologists. While the Board is free to determine the subject and scope of the exam it is to give and may waive the exam in its judgment, the qualifications for applicants are spelled out in the Act. An applicant must hold a doctoral degree in psychology, have two years of supervised experience, be 21 years of age, a resident of Texas, of good moral character, and a citizen of the United States or have declared his intent to become a citizen. The Board may grant sub-doctoral certification as an assistant or technician if the applicant is employed by a unit of government, is a student trainee, is under the direction of a full licensee, is an out-of-state resident with limited Texas practice, holds a doctoral degree in social psychology, or is a representative of a duly ordained religion. Representing oneself fraudulently by a title prohibited under S. B. 667 may result in a fine of \$500 and 30 days in jail, with each day of fraudulent practice constituting a separate offense.

Created by S. B. 740, the Polygraph Examiners Board is the enforcement agency of the Polygraph Examiners Act. Specifying the minimum instrumentation that must be used in the profession, the Act prohibits unauthorized practice, establishes license qualifications, allows the Board to grant out-of-state and internship licenses, provides grounds for refusal, suspension and revocation of a license, and includes a grandfather clause. Both a hearing before the Board and judicial review of Board action are guaranteed. The Polygraph Examiners Board is to function as part of the Engineering Extension Service, Police Training Division, Texas A&M University.

The Texas Professional Associations Act (S. B. 745) defines "professional

service" as any type of personal service to the public that requires one rendering the service to obtain a license, and which service by law cannot be performed by a corporation. The Act, which provides for articles of association, and dissolution, allows any one or more persons licensed to practice a profession in Texas to form a professional association. All members of the association must be licensed, and an annual statement must be filed by the association with the Secretary of State.

The Texas Optometry Act was passed in S. B. 781. The new legislation creates the Texas Optometry Board to replace the Texas State Board of Examiners in Optometry. The legislation authorizes the Board to regulate the practice of optometry and ophthalmic dispensing.

Finally, H. B. 279 amends the law governing the legal profession. The legislation sets forth the procedures that must be followed when disbarment proceedings are instituted. Under the new section of the State Bar Act, disbarment proceedings must be started in the district court in the county of the attorney's residence. Moreover, upon conviction for a felony, or for certain misdemeanors, the attorney shall be suspended by the district court from the practice of law pending an appeal of the conviction. Upon final conviction, the court is instructed to enter an order disbarring the attorney from the practice of law.

BANKING, CREDIT, INSURANCE, AND SECURITIES

There were some changes in the law regulating banking and credit practices in Texas. A few examples illustrate the scope of the legislation. H. B. 345 subjects certain mortgage banks to inspection by the Banking Commissioner of Texas. H. B. 684 amends the Texas Banking Code regarding the powers of state banks. And S. B. 317 provides procedures for organizing and regulating credit unions. Clearly, the adoption of the Texas Consumer Credit Code by the Sixtieth Texas Legislature in 1967 remains the most significant credit-related legislation of recent years.⁹ Nor was there much legislative activity in the area of insurance and securities; what there was makes only minor changes in existing law. S. B. 146, for example, authorizes life insurance companies to invest any funds and accumulations in remainder or life interests in express testamentary trusts. And S. B. 842 permits life insurance companies to invest in bonds issued by the state of Israel. Other bills in this category are found in Appendix A.

⁹ A detailed analysis of this legislation is found in Minor B. Crager, "The Texas Consumer Credit Code: Consensus, Conflict, and Change," *Public Affairs Comment*, XIV (January, 1968), 1-4.

COURTS, COURT PROCEDURE, AND CRIMINAL LAW

Courts and Court Procedure. As is true for almost every area of legislative activity, the courts are the subject each session of a host of special and local bills. The Sixty-first Texas Legislature passed in excess of 80 special and local bills directly affecting the administration and operation of the Texas court system. Individually, these bills are of little consequence. Together, they regulate the administration of courts in great detail.

Aside from the creation in the second called session of 27 new district courts (S. B. 22), most of the general legislation of state-wide importance involved minor changes in court procedure. H. B. 51, for example, authorizes courts of civil appeal to issue writs of habeas corpus. And H. B. 643 authorizes a search warrant to be issued to a fire marshal or health officer on a showing of probable cause. Responding to new federal programs, the Legislature authorized juvenile courts (H. B. 533) to make records available to the agencies responsible for the implementation of the federal Omnibus Crime Control and Safe Streets Act. H. B. 1053, changing the name of the "Corporation Court" to "Municipal Court," and H. B. 1086, redefining "prosecuting attorney" as defined in the Uniform Reciprocal Enforcement and Support Act, are other examples of bills in this category. Appendix A includes the remainder of the general legislation affecting courts and court procedures. Also included are a number of bills making minor changes in the Probate Code.

Domestic Relations. Title I of the Family Code was adopted by the passage of H. B. 53. The law is a substantive revision of the statutes relating to husband and wife. Title I does not include a revision of the law governing the custody and support of children in a divorce suit; this awaits the adoption of Title II.

Title I does include the law governing the act of marriage, the validity of marriage, divorce, the rights and duties of spouses, and marital property. Although numerous changes are recorded in the Code, most of the provisions of the previous law are reenacted. Many of the changes are not of major significance. For example, the age for parental consent to the marriage of a minor male was changed from 21 to 19; the age for minor females was left unchanged at 18.

Other provisions, however, are departures from previous practice. Perhaps the most important is a modernization and liberalization of the divorce laws. New grounds are added to those already specified. The Code permits action for divorce on the grounds of "insupportability" in the marriage. A divorce may be decreed for either spouse "without regard to fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation." In the past, divorces have been awarded on the

grounds of "cruelty," a provision in the law which has been expanded by judicial interpretation to include marriage circumstances which have been, in fact, only insupportable within the meaning of the new provision. Other changes in the divorce law reduce the time requirements necessary to sustain certain divorce actions. Now a divorce may be granted to spouses who have "lived apart" for three years; under the old law a period of seven years was required. Divorces may also be granted for abandonment after one year (rather than three), and after incarceration in a mental institution for three years (rather than five).

Another major change is the statutory recognition of "common law" marriages. Statutory law has had only fleeting references to marriages which were not formalized by ceremony. Such references were limited to sections in the law declaring valid marriages entered into by bond or custom or as a result of slavery. For many years, however, Texas courts have recognized the validity of certain "common law" marriages. The law now provides for the declaration and registration of these informal marriages. Such marriages are entered into by the mutual consent of the parties, upon cohabitation and upon presentation of themselves as husband and wife.

Criminal Law. Crime and civil disobedience received more than their usual share of attention from the Sixty-first Legislature. One cluster of bills in particular indicates that the distress growing in the nation over unrest in our cities and on our university campuses has found its way into Texas. The old prohibition against disturbing the peace is changed by H. B. 57 to forbid "disorderly conduct," in the apparent hope that the latter phrase will prove more useful to law enforcement officials. Repeated convictions under this act call for a maximum penalty of \$1,000 and 30 days in jail.

H. B. 141 forbids any person or group from engaging in "disruptive activity" or from disrupting a lawful assembly on the campus or property of any private or public school or institution of higher learning or public vocational and technical school or institute. H. B. 1450, a companion bill, prohibits interfering with "the normal activities, the normal occupancy, or normal use" of educational facilities by "exhibiting or using or threatening to exhibit or use a firearm." This is a felony offense and may be punished by a five-year prison sentence.

S. B. 143 prohibits willful interference with any fireman, policeman, or other peace officer in his lawful duties, or with any doctor or medically related person trying to control or reduce injury during a riot, civil disturbance, or other public disaster. According to this act, "interfere" means "to obstruct passage or free movement, materially delay, or prohibit, by direct or devious means." This, too, is a felony, punishable by imprisonment from two to ten years.

In an age of credit, the theft and fraudulent use of personal credit cards has

become big business. Under H. B. 1006 this prohibited offense includes taking a card from a person without his knowledge, using one when found, buying one from a person other than the issuer, obtaining control of a card as security for a debt with the intent to defraud the issuer, and receiving cards with the knowledge that they are stolen. The act also defines and prohibits credit card forgery, forbids possessing incomplete cards or the machinery needed to alter them, and prohibits fraud by persons authorized to provide service. Notice of revocation by an issuer must be sent by registered or certified mail, return receipt requested. Violations of these provisions carry a fine of \$1,000 and prison terms of from two to seven years.

The Texas Dangerous Drug Law (H. B. 142) is for the most part a repeat of a similar law passed by the Sixtieth Legislature and held unconstitutional because of an irregularity in the bill caption. However, H. B. 142 is different in important ways. While several new drugs are added to the dangerous drug list, peyote is exempted, provided it is used in a bona fide religious service. Definitions of such terms as "patient" and "practitioner," deleted in 1967, are restored. The new bill prohibits "attempting to obtain" as well as "obtaining," and raises to felony status first offense possession of methamphetamine. Imprisonment from 10 years to life now faces anyone convicted of supplying dangerous drugs to minors or using minors to distribute drugs.

H. B. 392 is restricted to changing the penalties for drug violations. A first conviction of any violation of narcotic drug regulations carries a prison sentence of two years to life; a second conviction, from 10 years to life; a suspended sentence or probation is not available to one convicted of second and subsequent violations. Anyone convicted of violating regulations in regard to drugs and minors will receive a first-offense sentence of from five years to life; on second conviction, from ten years to life; and, again, second and subsequent convictions carry no provision for probation or suspended sentence.

H. B. 760 adds the use of dangerous drugs to the list of practices resulting in intoxication or temporary insanity that may not be used as an excuse for the commission of a crime. However, drug use may be introduced by a defendant in mitigation of the penalty attached to the offense for which he has been convicted.

Not all the drug laws passed by the Sixty-first session were designed to punish. H. B. 1005 provides that anyone found to be addicted to narcotics is to be committed to a mental hospital for the time necessary to arrest his addiction. This act goes to great lengths to guarantee the rights of an addict. The sworn petition asserting addiction that is to be presented to a county judge must be accompanied by the supporting statements of two physicians. While one may waive a trial by jury, there is to be no arbitrary denial of this right. Ordinarily, the defendant may remain at liberty pending his hearing, although in cases of "extreme emergency" he may be held in "protective custody" for up

to seven days. One is not to be committed except on the basis of competent medical or psychiatric testimony. The right to appeal any court decision is guaranteed.

The target of H. B. 235 is "not innocent but calculated purveyance" of obscene material. Tracking relevant decisions of the United States Supreme Court, this act makes use of such standard terms as "purient interest," "contemporary community standards," and "redeeming social value." The difficulty of drawing obscenity guidelines with any degree of precision is clear in the language of the law, although the Legislature's efforts are as good as most. In Texas, "purient interest" now means "a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor." H. B. 235 authorizes officials to obtain a warrant and seize allegedly obscene material; it also authorizes officials to obtain an injunction to stop the distribution of suspected material, although a trial on the merits must be held within 24 hours after the injunction is granted. First offense conviction of distributing obscene matter may be punished by a fine of \$1,000 plus \$5.00 for each "unit," not to exceed \$10,000, or by a term in county jail of six months plus one day for each unit, not to exceed 360 days. Multiple offenders face a fine of \$2,000 plus \$5.00 per unit up to a maximum of \$25,000, and five years imprisonment. Hiring a minor to distribute obscene material may be punished by a \$2,000 fine and one year in jail. Repeated offenses carry a penalty of \$5,000 and five years imprisonment.

S. B. 660 adds to the definition of a "disorderly house" buildings, houses, theaters, and other structures in which obscene motion pictures are shown to persons under 21 years of age. The act employs the standard definition of obscenity. Its penalties do not apply to a projection machine operator or his assistant if they have no financial interest in the theater where they are employed other than their wages.

The Texas Law on the Protection of Minors from Harmful Materials is found in S. B. 661. The law is designed to provide officials with a rapid judicial determination of the true content of allegedly obscene material, an effective method of halting the sale of offensive matter, and the power to bring criminal proceedings against those regularly selling pornography to minors. S. B. 661 treats such topics as nudity, sexual conduct, sexual excitement, and sado-masochistic abuse. Key phrases include "purient, shameful or morbid interest," "prevailing standards in the adult community," and "utterly without redeeming social importance." When the Attorney General or any district attorney brings suit, the court is to review the material involved, at all times observing "maximum promptness." A permanent injunction may be obtained after a trial on the merits, and conviction under the law may result in a fine of \$2,500, two years in county jail, or both.

ELECTIONS

The Texas Election Code was revised with the passage of H. B. 512. This measure supplements the major election code revision enacted by the Sixtieth Texas Legislature in 1967. Among other provisions, the bill clarifies the law as to who may serve as an election judge, provides three optional methods of notifying the public of a forthcoming election, changes the fees charged for filing for office, provides specifically for absentee voting in bond elections, amends the law regulating the use of voting machines and electronic voting systems, and makes minor changes in the nominating processes and the conduct of elections. Other changes in Texas election laws are found in Appendix A.

EDUCATION

Higher Education. Higher education always receives much legislative attention. In addition to the numerous bills passed effecting small changes in the administration of higher education, several passed creating new schools and changing names of existing schools. This legislation is a result of the continual interaction among the individual schools involved, the committees in both houses of the Legislature, the Coordinating Board, and selected clientele groups. This process reflects ongoing adjustments in the state's higher education policy. Several particular bills merit attention.

H. B. 586 authorizes the Coordinating Board to contract with Baylor College of Medicine and Baylor College of Dentistry for the education of resident medical students. Although funds for the purpose were not appropriated, the legislation is still significant in that it reflects a growing national trend to provide public assistance to private colleges and universities. As the costs of higher education increase, many private schools are finding it difficult to operate from their restricted financial bases. This issue—state aid for private colleges and universities—promises to be of growing importance in the future.

Seven bills create or authorize the creation of new schools as parts of The University of Texas System. The Board of Regents is authorized to create a number of new university components: a clinical nursing school at San Antonio, by H. B. 75; a dental branch at some location outside a county or a contiguous county where an existing dental school is located, by H. B. 79; a medical branch in Harris County and another school the location of which is to be determined by the Board of Regents, by H. B. 80; an upper-division branch to be called The University of Texas at Dallas, by H. B. 303; and a nursing school in El Paso County, by S. B. 394. The Legislature created The University of Texas of the Permian Basin, by H. B. 157 and The University of Texas at San Antonio, by H. B. 42.

Other new schools include the Texas Technological College School of Medicine at Lubbock (H. B. 498) and an upper-division branch of Texas A&I University at Laredo (H. B. 607). The latter is to be established by the authority of the Texas A&I University Board of Regents.

In a pair of bills, the Legislature acted in response to a growing concern about campus violence, although Texas has thus far been spared any militant student unrest. H. B. 141 forbids any person or group from engaging in "disruptive activity" or from disrupting a lawful assembly on the campus or property of any private or public school or institution of higher learning or public vocational and technical school or institute. Violations of this act may be punished by a fine of up to \$200 and a jail term of up to six months. The real target of H. B. 141 is revealed in a further penalty: anyone violating the act a third time is barred for two years from attending any school, college, or university receiving funds from the state. H. B. 141's companion bill is H. B. 1450. This act prohibits interfering with "the normal activities, the normal occupancy, or normal use" of educational facilities by "exhibiting or using or threatening to exhibit or use a firearm." This is a felony offense and may be punished by a five-year prison sentence.

Two other bills merit attention. Under the Higher Education Authority Act (H. B. 1233), cities may create, by ordinance, a higher education authority to assist in the acquisition and maintenance of educational facilities within the city's territory. Facilities acquired may be operated by the authority, or they may be leased. Revenue bonds may be issued, but they must be backed by income from the operation of the facilities—the authorities have no taxing power and no power of eminent domain. Lastly, S. B. 535 is the enabling legislation for the constitutional amendment raising the ceiling on bonds sold for the Texas Opportunity Plan to \$285 million. The amendment was approved by referendum in August, 1969.

Public Education. H. B. 240 goes a long way toward guaranteeing Texas' public school teachers the adequate compensation they have so long been denied. The act provides a long-range plan for adjusted pay scales, beginning with base raises of \$750 in 1969 and \$1,000 in 1970. Starting in 1971, an automatic five per cent annual raise for 10 years experience will go into effect; in 1974 and 1978 teachers will receive 10 per cent cost-of-living increases. H. B. 240 also grants a 10 per cent boost in state assistance for school operation, adds vocational teachers to the basic service list in 1971, supplies a 20 per cent increase in state aid for school transportation, adds kindergarten to the foundation program on a gradual basis, and provides teacher aides effective 1970.

The Teacher Retirement System is significantly altered by H. B. 241. The annual salary limit on which contributions can be made is raised to \$25,000, and the retirement formula is raised to 1.65 per cent for each year of creditable service. All retired members of the system receive an annuity increase of 10

per cent. Auxiliary members are also granted an annuity increase; in addition, auxiliary members whose annual salary is \$3,800 or more are now eligible for the same survivor benefits as teacher members of the system.

Another measure designed to augment teacher benefits is H. B. 276, which provides a minimum sick leave program for public school teachers and guarantees five days of sick leave annually with no limit on accumulation. This accumulated sick leave may be transferred from one school district to another.

The Teachers' Professional Practices Commission is established by H. B. 32. The Commission is authorized to develop, adopt, and enforce a "Code of Ethics and Standard Practices" to serve as a professional guide for the conduct of teachers. Personnel are guaranteed a hearing and the right to appeal rulings of the Commission, since violation of the Code is grounds for suspension or revocation of one's teaching certificate.

Two laws affecting the bilingual character of many Texas school systems passed the Sixty-first Legislature. The duration of the program for non-English speaking children eligible to enter the first grade in the ensuing year is raised from three to four and one-half months by H. B. 161. This act also raises the salaries of those who teach these classes from \$200 a month to "not more than one-half the prevailing minimum salary schedule" for regular classroom teachers. Although H. B. 103 affirms that English shall be the basic language of instruction in all grade schools, the act does give school boards the authority to provide for bilingual instruction either by grade or by class. This is a much-needed change in public policy; heretofore, schools were effectively prohibited from bilingual instruction.

For the purposes of supplying special educational services, pregnant girls who are residents of or are under the care of licensed maternity homes are brought under the definition of "exceptional children" by S. B. 112. S. B. 230 lowers from six to three the minimum age for "exceptional children," includes "language and/or learning disabled children" under that definition, and expands the list of special services to be offered such children. The same term is expanded to include "educable mentally retarded students" by S. B. 635, which also allots \$150 per student to provide for their transportation.

An Advisory Council for Children with Learning Disabilities was created by the Brooks Study Act, S. B. 30, during the second called session. The Council, to report to the Sixty-third Legislature in 1973, is instructed by law to study the problems of disabled children and to make recommendations concerning the "establishment of state-wide diagnostic and treatment facilities." The Act also sets forth the responsibilities of the Texas Education Agency, which has eventual responsibility for implementing possible Council recommendations.

Focusing now on changes in school administration, several acts are of some importance. H. B. 467 directs the Central Education Agency to develop curricula for the study of the dangers of crime and narcotics. This act requires that

classes of this nature be taught in the public schools in grades five through 12 and creates the Crime and Narcotics Advisory Commission to advise and assist the agency and local citizens in their efforts to develop suitable programs.

Under H. B. 613 schools now operating 12 months a year may participate in a pilot program to test the feasibility of offering public education on a three-semester basis. A district wishing to adopt this approach must submit a plan for approval to the Central Education Agency. This pilot project is restricted to a maximum of 10 programs not to exceed 100,000 pupils. Any child who becomes six years old after September 1 may enter the program in the semester following his birthday, and students are limited to attending any two of the three semesters.

Vocational teacher units are removed from unaccredited high schools by H. B. 263, but schools unable to provide such education are authorized to contract with post-secondary institutions for the service. This act places salaries for teachers in distributive adult education under the foundation allotment, includes vocational teacher units in the current operating costs for each district, and allocates \$400 of state assistance per unit. If necessary to meet salary schedules, H. B. 263 also authorizes funding above that called for in the General Appropriations Bill. The act also removes the requirement that professional vocational teacher units for school districts be figured separately for whites and Negroes.

The Advisory Council for Technical-Vocational Education is created by S. B. 261 to develop and coordinate programs for technical and vocational training in state educational institutions. The full-range of council responsibility includes planning, recommending, and evaluating educational programs in the vocational, technical, adult education, and manpower training areas.

H. B. 434 authorizes contiguous counties to participate in multi-county day schools for the deaf and adds one visiting teacher unit to the allocation for each such county-wide or bi-county school. Operational expense allotments per pupil are raised from \$500 to \$700, and the initial allotment per teacher unit for the first year of operation is increased from \$2,000 to \$3,000. In addition, the act allots an operating fund of \$1,000 for each continuing teacher unit for fiscal 1970.

Lastly, S. B. 165 amends the law governing the investment of the Permanent School Fund. Interest from this fund is a major source of revenue for public schools. The law now permits greater flexibility in the management of the Fund, a change designed to increase the state's income and to protect the principal from erosion by inflation.

HEALTH AND WELFARE

Public Health. Technological progress has made organ transplants com-

monplace. Serious and as yet unresolved legal and ethical questions have been raised as a result. One of the problems involves the determination of death and the causes of death of prospective organ donors. The Legislature in H. B. 243 addressed this problem, in part, by requiring the county medical examiner or his deputy to be present at organ transplant operations, when death occurs under circumstances normally requiring an inquest. In a related matter, the Legislature by H. B. 244 sought to regulate the donation of human bodies. The Texas Anatomical Gift Act sets forth the conditions and obligations of donating a human body or parts thereof.

Attacking other problems, the Sixty-first Legislature passed a number of bills designed to treat problems facing Texas' youth. H. B. 506 raises the maximum age for classification as a "dependent child" or "neglected child" from 16 to 18 years, raises to the latter the maximum age for admission to certain state homes, and adds the West Texas Children's Home at Pyote to the list of available facilities.

H. B. 926 confronts the "battered child syndrome," a phenomenon of which a shocked public is gradually becoming aware. This act expands the list of those who may report the physical abuse of children and grants immunity from civil or criminal liability to anyone making such a report without malice. Each county attorney is directed to maintain a file of reports of abused children and to take such legal action as is necessary to secure the physical well-being of the child. In judicial proceedings involving this offense, the husband-wife privilege is removed as grounds for excluding evidence. A central registry for reports of cases of child abuse is to be established in the Department of Public Welfare.

If a minor is found to be in need of medical care for which parental consent is necessary, but neither parent can be contacted, H. B. 1452 authorized certain others to give a written statement of consent. Absent actual notice to the contrary by one of the parents, any of the following may give consent for the medical care of any minor in their custody: a grandparent, an adult brother or sister, an adult aunt or uncle, or a legal guardian. If an affidavit signed by one or both parents so authorizes, any other person who has custody of a child may permit medical attention.

S.B. 111 establishes principles to make sure that buildings and facilities constructed by the use of federal, state, county, or municipal funds will be accessible to the physically handicapped. Among other requirements are entrance ramps with minimum grades, raised lettering to identify buildings and rooms, minimum standards for clearance in passageways, and special toilet facilities.

Under S.B. 26 parents living within Special Rehabilitation Districts do not have to pay tuition for special services received by their children. Vocational education units and other special education personnel are added to the facilities operated by such a district. This act was made necessary by the fact that the Office of General Counsel, Education Division for Policy and Procedures,

United States Department of Health, Education and Welfare has ruled that independent rehabilitation districts created under current law are not free public schools within the meaning of and for the purposes of direct allocations of Title I funds.

Two bills passed in 1969 were in response to the National Flood Insurance Act. S.B. 734 authorizes any county bordering the Gulf of Mexico or the Gulf's tidewater limits to determine and describe the boundaries of flood areas or areas prone to rising water. The commissioners courts of such counties have the power to enact and enforce regulations regarding the use of land and structures in any flood area. S.B. 668, the Flood Control and Insurance Act, recognizes that it has become uneconomical for the private insurance industry alone to make flood insurance available. For this reason, political subdivisions are authorized to take all necessary and reasonable action to comply with the requirements of the National Flood Insurance Program. The Water Development Board and the Board of Insurance are directed to assist the subdivisions in qualifying under federal law.

Mental Health and Mental Retardation. The Mental Health and Mental Retardation Act (1967) is amended by S.B. 465. In addition to redefining "local agency," this act includes persons disabled from alcoholism and drug addiction under those eligible for mental health services and lists 28 facilities that are made part of the Department of Mental Health and Mental Retardation. Greater latitude is given the administration of health services by deleting the specifics of contracts that may be entered into and by providing for contracts between community services.

In frank recognition of the mobility of American people, the Legislature by H.B. 423 enacted the Interstate Compact on Mental Health. The new Compact declares that any person, regardless of his legal residence, has a right to the use of medical facilities if needed in any participating state. The law also sets forth the obligations of each state in the handling of patients who, for clinically determined reasons, should be transferred to an institution in another state.

Public Welfare. The major legislation involving public welfare included a proposed new constitutional amendment raising the ceiling on welfare payments, which passed a popular referendum on August 5, 1969. Aside from the constitutional amendment, the most significant welfare-related legislation was H.B. 1015, which reorganizes the Department of Public Welfare so that it may act more effectively. The act gives the Department the power to expand programs and to use various sources of money to attract federal funds. Designed to help families and individuals attain or retain a capability for independence and self-care, the act removes one-year residence requirements for those eligible to receive assistance for the blind, the permanently and totally disabled, the aged, and families with dependent children.

Other legislation included H.B. 1011 which excludes earnings by children

attending school full-time from the annual income of persons living in low income housing projects and S.B. 441, which reorganizes the structure and control of child welfare boards.

Occupational Health and Welfare. The Texas Minimum Wage Act of 1970 (H.B. 156) guarantees to workers a minimum wage of \$1.25 an hour, a rate to be raised to \$1.40 an hour by February 1, 1971. Aside from this provision, H.B. 156 is concerned chiefly with exemptions and provisions for special cases. Among many others not affected by the Minimum Wage Act are those engaged in religious work, persons under 18 who have not graduated from high school or a vocational training school, students under 20, and those employed by seasonal recreational establishments. Agricultural workers are to be paid \$.20 less than the minimum federal wage, not to exceed \$1.40 an hour. The cost of an employer's furnishing meals and lodging is to be included in computing wages; if a worker lives in quarters furnished him, his guaranteed wage is \$30 per week; if a family lives within those quarters, any number of the family may be employed without regard to the act. Elderly persons over 65 whose earning capacity is impaired may be paid not less than 60 per cent of the base wage, and the Commissioner of Agriculture is authorized to set suitable wages for piece work. Exempted entirely from the act are agricultural employers if they used no more than 300 man hours in any calendar quarter during the preceding year or if they are engaged in the production of livestock and related activities.

The Workmen's Compensation Act is amended by S.B. 64 to increase the maximum and minimum weekly rates to be paid for death, partial, or total incapacity to \$49 and \$12, respectively. In an effort to promote final judgment by the board hearing a claim for disability payments, attorney's fees for representing the interest of a claimant before the board and for carrying a case from the board into the courts are equalized at 25 per cent of the settlement figure. S.B. 64 also prescribes rules for prehearing conferences, allows employers to begin payments voluntarily prior to settlement of claims, and empowers the board to delay hearings when medical reports requested by it remain unavailable.

The recent death of a number of migrant workers prompted the Sixty-first Legislature to pass H.B. 436. This act establishes strict standards for transporting migrant workers by specifying qualifications for drivers, authorizing the use of certain kinds of vehicles only, providing detailed operating procedures, and requiring that certain minimum facilities be provided the workers while in transit.

H. B. 535 authorizes the Department of Corrections to establish a "Work Furlough Plan" under which an eligible prisoner may be released from actual confinement to travel to work, do his job, and return to his designated quarters. The Director of the Department of Corrections is to try to secure employment for the prisoners at the prevailing local wage, but established employees are not to be displaced. Wages earned by the prisoners are to be paid to the Department

of Corrections, and a prisoner is responsible for his keep. Disbursal of wages is on a priority basis: travel expenses have first claim, followed by the support of any dependents. Any balance will be paid the prisoner upon his discharge. Prisoners participating in this program are not eligible for workmen's compensation, and they are not to enjoy the restoration of their civil rights.

Retirement Benefits and Pensions. Two bills passed by the Sixty-first Legislature are indicative of the many changes in retirement and injury benefits due public officials and private individuals. S.B. 55 amends the Retirement System for State Employees to provide a new and wholly retroactive computation basis for service retirement allowance. The new rate allows 1.25 per cent credit per year for each of the first ten years of service, grants 1.50 per cent credit per year for service between years 10 through 30, and retains the old rate of 1.75 per cent for 30 years service or more. In addition, the old minimum guaranteed allowance of \$30 per month is raised to \$50.

The act sets floor and ceiling benefits on allowances for non-occupational disability retirement based on a formula of 1.50 per cent per year of service times the average monthly compensation for the 60 highest consecutive months during the last 120 months of creditable member service. Minimum compensation is to be 30 per cent of the average compensation so computed; maximum compensation is to be 60 per cent. These guarantees are up from 25 per cent and 50 per cent respectively. The act further grants a minimum monthly allowance of \$75 and gives a 15 per cent increase to a member retiring prior to September 1, 1958. The same formula is used in setting payments to members retiring because of occupational disability.

If a member dies without a surviving spouse while receiving a non-occupational disability allowance, death benefits as provided elsewhere by law will be paid only to the guardian of the member's dependent minor children. If a member dies while receiving occupational disability payments, death benefits equal to the member's salary at the time the allowance was granted will be paid.

Should a member die before retirement, additional death benefits are provided for only if, at the time of death, the member was actively employed by the state, or on compensation insurance, or on temporary sick leave. If a member with 30 years service, or an eligible member with 20 years service fails to choose a nominee and optional allowance for retirement, the surviving spouse or guardian of surviving minor dependent children may exercise this option. Finally, S.B. 55 grants an across-the-board increase of 10 per cent to all service retirement annuities calculated under laws in effect as of August 31, 1958, or any subsequent annuity granted.

HIGHWAYS AND MOTOR VEHICLES

Most of the legislation in this category is of restricted scope. Several bills

made minor changes in the state's traffic law, such as H.B. 194 lowering to 19 the age limit for driving a taxi and H.B. 217 increasing to 65 feet the allowable length of vehicles moving in combination. This type of legislation is common in every legislative session since the Legislature has oversight responsibilities for the state's highways and its traffic law system. However, two measures do merit more detailed attention.

H.B. 768 increases the fees and service charges of tax assessors-collectors for issuing license receipts and license plates. The increase is to offset increased handling charges expected in the administration of the state's new automated vehicle registration system. Under the new system, to be inaugurated in 1970, all owners of vehicles previously registered will be mailed a three-part form. All that will be necessary to register a vehicle will be this form; previously, the registrant had to take his title and license receipts to the registration place. The new system promises to expedite the entire registration process. Moreover, a central master file is maintained in Austin, and the automated features make it possible for state and local police to interrogate the central file in a very short time. This increases substantially the usefulness of such files for police and for other interested officials.¹⁰

S.B. 74 declares that anyone operating a motor vehicle on the public highways of the state shall be deemed to have given consent to a chemical test of his breath to determine any possible influence of alcohol. The test is to be administered under the direction of an officer having reasonable grounds to suspect that the driver has used alcohol excessively. The person being tested may consent to any other type of chemical test, if he wishes, but only a physician, qualified technician, chemist, registered professional nurse, or licensed vocational nurse under the supervision of a physician may withdraw blood. Any blood test must be given in a physician's office or hospital, and the person drawing the blood is not liable for damages if correct procedure is followed. The person tested may, within two hours, elect to have a qualified person of his own choosing administer additional tests.

The results of tests may be introduced into evidence in any trial arising out of the acts that led to the arrest, and the accused and his attorney are to have full information concerning the test results. Refusal by a law officer to give a test may be introduced into evidence; refusal to take a test will result in a hearing. If, at such a hearing, the court finds that probable cause exists for believing that the accused was driving under the influence of alcohol, the Director of the Department of Public Safety is to suspend the accused's license to drive for the period ordered by the court, not to exceed one year.

¹⁰ For a complete discussion of the new system, see Charles R. Brewer, "Computerized Motor Vehicle Registration in Texas," *Proceedings of the Eleventh County Auditors' Institute* (Austin: Institute of Public Affairs, The University of Texas, 1969), pp. 50-55.

NATURAL RESOURCES

There has been a gradual public awakening to the importance of natural resources to the future of the state and the nation. For many years the term had a rather narrow meaning, bringing to mind such things as oil and sulphur and other products of nature. And a history of American "individualism" coupled with legal sanctions conditioned Americans to think of most natural resources as public property subject to the right of individual or corporate exploration. Following Adam Smith, many thoughtful Americans believed that free and equal access to natural resources was an essential element of a competitive economy, a necessary part of the mechanics of the "unseen hand." That such access was never equal nor really free was of little concern. But by 1930 the unrestricted exploitation of natural resources was no longer acceptable, and regulatory agencies were created to provide some order to the American market.

Clearly, the primary function of economic regulation is not the protection of natural resources. In some industries, however, economic regulation has the residual effect of providing greater public control over the use of resources and governmental regulation remains today the major technique of public control. Moreover, the public has come to consider natural resources in a broader context. The problems of air and water pollution have heightened public concern for the quality of the common environment and forced Americans to think of their air and water as precious natural resources that can be exploited or abused as easily, indeed more easily, than mineral or other product-related resources. This concern for environmental quality has spread to other forms of natural resources, including forests and wildlife. The result is that Americans are gradually awakening to the importance of their natural resources for their life-sustaining and aesthetic value. These forces have been felt in Texas and are reflected in legislation.

Six bills were passed during the second called session representing an attempt by the Legislature to protect public beaches along the Gulf of Mexico. S.B. 16 declares it to be state policy that local governments should be assisted in keeping the beaches clean. Accordingly, the law specifies the requirements that must be met if cities and counties eligible for state aid wish to avail themselves of such assistance. Continuing, the act authorizes the Parks and Wildlife Department to award sums up to \$50,000, but not to exceed one-half that expended by the local government, for beach maintenance.

Many beach areas along the coast are outside the jurisdiction of municipal governments. Primary responsibility for beach maintenance thus rests with the county. S.B. 19 authorizes the commissioners court in counties bordering on the Gulf to create a board designated the Beach Park Board of Trustees. The boards will have jurisdiction and governing authority over all lands used as parks in connection with public beaches. The boards have the authority to expend money

appropriated by the commissioners courts, to issue revenue bonds for improving park facilities, and to enter contracts with other governmental jurisdictions, among other things. The act is cumulative of all other laws relating to county parks.

S.B. 25 reasserts the state's policy that public beaches be reserved for recreational purposes. Recognizing, however, that certain types of commercial activities are in the public convenience, the Legislature directs the Parks and Wildlife Department to license certain types of mobile business establishments to do business in beach areas.

Recent years have witnessed a national reaction to the exploitation of coastal resources by commercial ventures; Texas has been no exception, and efforts are being made to plan for the future use of coastal areas. The Interagency Natural Resources Council is preparing a report recommending future state policy on the use of the state's submerged lands, beaches, islands, estuaries, and estuarine areas pursuant to S.C.R. 38 of the Sixty-first Texas Legislature. S.B. 20 declares a moratorium on the sale or lease of the surface estate of such areas pending the receipt of the Council's report, or until May 31, 1973, whichever comes first.

Attempting to provide some local regulatory authority over the taking of materials from beach areas, the Legislature passed S.B. 18. The bill directs that anyone wishing to take sand, marl, gravel, or shell from lands along the Gulf must secure a written permit from the appropriate commissioners court. Under no circumstances, however, may a permit be issued to take materials from state-owned lands or from public beaches. Permits will issue to take materials from private lands only with the permission of the owner.

Finally, S.B. 17 declares it to be against the law for any individual or association to post signs or messages forbidding public access to a public beach. Violation of the law carries a fine of \$10-\$200.

Air and Water Pollution Control. Several measures passed the Sixty-first Legislature dealing with the control of air pollution, a growing problem in Texas' industrial centers. S.B. 48 is a revision of the Clean Air Act. The revision accomplished several things. First, the law was rearranged and some of its language clarified. Second, some changes were made in the administrative processes of the Air Control Board. And third, the substantive powers of the Board were broadened. Of particular importance is the authority given the Board to require the submission by individual companies of information concerning emissions of air contaminants and to prescribe reasonable requirements for the measurement and monitoring of emissions by individual companies. Also, under the terms of the revision, the Board may control plants processing agricultural products by a formula derived from "process weights"; this provision enables the Board to make the regulation of cotton gin emissions more effective. Finally, the new law has an emergency clause empowering the Board

with the concurrence of the Governor to order parties to discontinue operations immediately.

In related measures, the Legislature by S.B. 5 defines the offense of air pollution and provides for criminal penalties for individuals and corporations convicted of violating emission variances or orders. Each day of the violation constitutes a separate offense and is a misdemeanor punishable by a fine of \$10 to \$1000. S.B. 7 requires the maintenance of emission devices to control crankcase discharges on motor vehicles beginning with the model year 1968.

The Water Quality Act was also revised during the regular session. S.B. 147 is a reorganization of the Act, clarifying certain language and modestly expanding the substantive powers of the Water Quality Board. The thrust of much of the revision is directed to regional and local levels of government. For example, the revised Act invests the power to handle certain kinds of pollution in county commissioners courts. And under the revision, the Board can designate one governmental entity in a metropolitan area to develop sewage facilities for the entire metropolitan complex. All other governing jurisdictions may then be required to "hook on" to these facilities. Other provisions of the revised Act provide for the reporting of anticipated discharge or spillage to the Board, for the regulation of activities lending themselves to accidental spillage, for the control of certain waste discharges by rule, and for the monitoring and reporting of waste discharges and of water materially affected thereby.

S.B. 6, a companion bill of S.B. 5 discussed above, defines the offense of water pollution and provides for a fine of \$10 to \$1000 upon conviction; each day constitutes a separate offense.

In other measures, the Legislature by S.B. 125, the Solid Waste Disposal Act, prescribes methods for collecting, handling, storing, and disposing of putrescible and non-putrescible discarded or unwanted materials. In setting the duties, powers, and functions of the Department of Health, the Water Quality Board, and local government jurisdictions relative to solid waste management, the Act provides for permits, inspection, suit, injunction, and penalties.

H.B. 1367 authorizes commissioners courts to acquire plants, incinerators, landfill areas, or other works for treating, neutralizing, stabilizing, or disposing of waste. The courts may enter into contracts if necessary to implement the act. Revenue bonds may be authorized without election, but the bonds must be payable from revenues pledged to their payment and are not to be considered in determining the future taxing power of a county. Grants may be accepted from any source to finance the treatment of waste, and fees for the use of the facilities must be charged so long as any debt is outstanding.

S.B. 488 amends the Regional Waste Disposal Act of 1967. A number of definitions are revised or clarified. "Person" includes any political subdivision or governmental agency of the United States or the state. "River authorities," "river basins," and "coastal basins" are defined. And "treatment facilities" are

expanded to include facilities to provide cooling water to collect, control and dispose of waste heat. The act allows river authorities to prepare comprehensive regional plans for water quality management and control and abatement of pollution. These plans are to be consistent with applicable water quality standards, are to contain outlines for the most effective and economic disposal systems, and are to provide for maintenance and improvement of water quality standards. Under the continuing supervision of the Water Quality Board, authorities may enter into contracts appropriate under the Federal Water Pollution Control Act.

The Injection Well Act (S.B. 138) prescribes regulations for converting existing wells into injection wells for the purpose of disposing of industrial and municipal waste into sub-surface strata. The Water Quality Board regulates this action, and noncompliance with the Act may result in a fine of \$1,000 per day.

Finally, by S.B. 225 the Legislature created the Gulf Coast Waste Disposal Authority. The new Authority is empowered to provide for the disposal of water-borne wastes of all types. In short, it is authorized to provide water pollution control for the area included in Chambers, Galveston, and Harris counties. This includes, of course, the city of Houston and the Houston ship channel.

LOCAL GOVERNMENT

The Texas Tort Claims Act is clearly one of the more important measures passed by the Sixty-first Texas Legislature. The Act removes the protection of sovereign immunity to suit, long enjoyed by governments in Texas, under certain circumstances. The legislation holds every governmental unit in the state liable, under certain conditions, "for money damages for personal injuries or death when proximately caused by the negligence or wrongful act or commission of any officer or employee." The impact this legislation may have on local government is as yet unknown. No doubt, local officials will give greater attention to risk insurance, something perhaps thought unnecessary in years past.

Another measure of importance to local governments is S.B. 60, passed during the second called session. This act authorizes any political subdivision eligible to borrow money from the Texas Water Development Board to sell its water development bonds and use the proceeds to buy state bonds. The governments can then resell the state bonds to the highest bidder, even at a discount. However, proceeds from the sale of state bonds can only be used for water development purposes, i.e., the purposes for which their original bonds were approved. This process is designed to provide local governments with both the authorization and incentive to buy state water development bonds.

Municipalities. Much of the legislation passing any session of the Texas Legislature affects cities and city governments. The air and water pollution control legislation is an example. Cities also have a vital interest in the substantive

revision of the Texas Liquor Control Act, for city police are responsible in part for its enforcement. Similarly, all legislation affecting hours and wages of fire and police are of concern to cities, for such changes are reflected in city budgets. The list goes on and on. Most of this kind of legislation has been reviewed in other sections of this study and only needs mention here. There are, however, several bills which are of special interest to cities.

All home rule cities are authorized by S.B. 26, passed during the second called session, to build and operate parking or garage facilities for the off-street parking or storage of automobiles. Passed in recognition of the problems cities face in managing automobile traffic, the act also authorizes the cities to exercise the power of eminent domain to acquire fee simple title to lands to be used for such parking facilities. After approval by a city-wide referendum, bonds may be issued to finance the facilities, and the cities are authorized to levy an additional ad valorem tax, not to exceed 50 cents on the \$100 valuation, to redeem this bonded indebtedness.

In a related measure, the Legislature by H.B. 1404 authorized cities and towns to accept federal grants and loans to finance mass transportation services. Particularly in the larger of the state's urban areas, there is already a perceived need for vastly improved mass transportation facilities. Indeed, in some Texas cities, such facilities simply do not exist.

As mentioned above, because municipal employment represents sizable percentages of city budgets, changes in salaries, retirement programs, and other benefits of government employment are of some consequence. H.B. 41 provides a new sliding scale to determine monthly wages for firemen and policemen, based on the size of the city. And cities are required by H.B. 187 to pay firemen and policemen for time-off appearances as witnesses in court. Several laws made minor changes in the administration of various municipal employee retirement systems: the Firemen's Relief and Retirement Fund, by H.B. 185, S.B. 89, and S.B. 310; the Firemen's, Policemen's, and Fire Alarm Operator's Pension System, by H.B. 1316; and the Texas Municipal Retirement System, by H.B. 122.

S.B. 21 passed during the second called session authorizes cities to provide for workmen's compensation insurance either by self-insurance or by contract with an insurance carrier. Moreover, the new law permits cities to provide such insurance for certain classes of employees or for certain departments in the city's administration. Inasmuch as the law does not require mandatory compliance and great flexibility is provided those who wish to avail themselves of the legislation, it cannot be considered a financial burden to Texas cities.

Counties. For several years, some county officials have wanted Texas counties to support an association of counties similar to the Texas Municipal League, a non-profit organization supported by Texas cities. S.B. 167 makes this possible by authorizing commissioners courts to expend public funds for membership

fees and dues to support such an organization. However, S.B. 167 contains a provision prohibiting *all* associations supported by public funds from lobbying or otherwise engaging in partisan political activity. Rigidly observed, this provision severely restricts the potential of the newly authorized association of counties and might endanger the long-successful lobbying efforts of the Texas Municipal League.

Texas counties are subject to detailed statutory control of their administrative functions and procedures; it is thus necessary to review briefly some of the changes in county administration instituted by the Sixty-first Texas Legislature. H. B. 612 removes the population requirements heretofore restricting the appointment of a county medical examiner to the larger Texas counties. The change reflects a national trend to replace coroners with medical examiners and, apparently, favorable experience with the office of medical examiner in Texas counties where it has been used. H.B. 1367 also extends the authority of commissioners courts. In this case, counties are authorized to acquire, construct, improve, equip, maintain, finance, and operate disposal facilities.

Although S.B. 27, passed during the second called session, is a local bill, it is potentially of importance to every county in the state. The measure authorizes the commissioners courts of Tarrant and El Paso counties to contract with political subdivisions in their respective counties for certain governmental services. "Governmental services" include police and fire protection, public health services, parks and recreation facilities, library services, waste disposal, planning, engineering, and the construction and maintenance of streets and roads. Moreover, the counties may contract to provide those functions normally considered a part of the "routine operation of government," including tax assessment and collection, personnel administration, purchasing, data processing, warehousing, and equipment repair and printing. Under this legislation, then, the county governments in Tarrant and El Paso can enter contracts to assume virtually all functions of local government in those respective counties. The act also assures to the county government under such contractual obligations the authority to promulgate the rules and regulations necessary to enforce its responsibilities. Although the legislation implements a constitutional amendment adopted in 1968, and constitutional amendments would be necessary for the Legislature to authorize similar arrangements in other Texas counties, a favorable experience in either El Paso or Tarrant might encourage similar measures in other parts of the state. While it is most unlikely that any county in Texas will assume all of the powers of local government under contract, the constitutional amendment and this legislation does permit local officials much latitude in determining the most effective ways of delivering urban services.

Special Districts. Every session of the Texas Legislature witnesses the authorization or creation of a host of special districts and authorities. During this session, the Legislature authorized or created 21 hospital districts, 80 water,

sewer, and water-related districts, four conservation and reclamation districts, and three authorities. The last include an airport authority, a municipal water authority, and a waste disposal authority. In total, 108 new governmental units are involved. This is in addition to the 84 new districts authorized or created by the Sixtieth Texas Legislature and the 70 authorized or created by the Fifty-ninth Texas Legislature.

Most if not all of these bills are passed as special and local bills, and as a characteristic of such legislation, these bills are not subjected to great legislative scrutiny. Not all of these districts are active, not all have taxing powers, and not all have bonded indebtedness. Nevertheless, their growth and development perpetuates many of the problems associated with special district government in the state and emphasizes the importance of scrutinizing their role, operations, and supervision by the state.¹¹

Some progress in the direction of more effective control of special districts was made by the Legislature during this session. H.B. 1143 declares all water districts to be under the continuing right of supervision of the state and the Water Rights Commission. H.B. 1139 requires the Water Rights Commission to investigate and report the obligations and feasibility of all fresh water supply districts that issue bonds. And H.B. 179 authorizes the Water Rights Commission to dissolve any water district which has been inactive for five consecutive years and has no outstanding bonded indebtedness.

Two bills passing the second called session affect the functions of water control and improvement districts. S.B. 9 authorizes water control and improvement districts containing any city to annex territory annexed by the city, provided the district supplies the city with water or sewer services. After the annexation, the district may call an election to determine whether the district as enlarged will assume the bonded indebtedness of the annexed territory and whether it will levy an additional ad valorem tax to redeem those obligations. S.B. 15 provides for an appeal in eminent domain proceedings initiated by a water control and improvement district.

Three other bills should be mentioned. H.B. 703 authorizes navigation districts to acquire land, charge for the use thereof, and pledge the revenues therefrom to the payment of obligation bonds. H.B. 1012 authorizes water districts and authorities to contract with each other to supply water; in the light of increasing numbers of special districts and of an increased awareness of the potentials of governmental cooperation, this legislation may be of increasing importance. Finally, S.B. 14 changes the title of a member of the governing body of a soil and water conservation district from "Supervisor" to "Director."

¹¹ See, Lynn F. Anderson, "Texas Local Governments: The Numbers Game," *Public Affairs Comment*, XV (January, 1969), 1-6.

Constitutional Amendments

The Legislature passed 16 joint resolutions proposing amendments to the Texas Constitution, all of which require approval by statewide referenda. Nine of the 16 were submitted to the voters in August, 1969; four were adopted. Among those was S.J.R. 8, raising the constitutional ceiling on public assistance payments from \$60 million to \$80 million per fiscal year. The new provision makes a supplemental appropriation of \$15 million for each year of the current biennium (1969-1971) to enable the state to meet immediate welfare requirements, and it eliminates certain constitutional eligibility requirements. The voters also approved an increase in the bond authorization for the Texas Opportunity Plan Fund from \$85 million to \$285 million (H.J.R. 50). The Plan was established in 1966, pursuant to a constitutional amendment, to provide loans for students in Texas' public and private colleges and universities. The "clean up" amendment was proposed by H.J.R. 3 and was approved by the voters. This measure repealed "obsolete, superfluous and unnecessary sections of the Constitution." Although the proposal has been endorsed as one method of modernizing a document originally adopted in 1876,¹² none of the deletions made substantive changes in modern Texas constitutional law. Lastly, the voters approved a measure (H.J.R. 4) increasing the list of government employees killed in the line of duty whose wives and children are eligible for assistance payments, if such payments are provided by legislative action.

As noted, five of the nine proposals failed in the August elections. Included were proposals providing for annual legislative session (H.J.R. 8), authorizing the Legislature to set its own salaries and those of the Speaker of the House and the Lieutenant Governor (S.J.R. 31), removing constitutional restrictions on interest rates for bonds issued pursuant to constitutional authority (H.J.R. 7), adding real and personal property owned by a non-profit water corporation to the list of properties the Legislature may exempt from taxation (S.J.R. 6), and increasing water development bonds to \$3.5 billion (H.J.R. 9). The water development bonds were to provide the state's share of the financing necessary to implement the Texas Water Plan, a long-range proposal to provide for Texas' future water needs.

The remaining seven amendments will be submitted to the voters at the general election in November, 1970. Several promise to be controversial. S.J.R. 10 raises the always-contentious issue of liquor-by-the-drink. The proposed amendment would allow the Legislature to enact a mixed beverage law regulat-

¹² For a review of alternative methods of constitutional revision, see Dick Smith, "Constitutional Revision: Attempts to Unshackle Texas," *Public Affairs Comment*, XV (Nov., 1969), 1-4.

ing the sale of alcoholic beverages on a local option basis. The language of the amendment makes explicit legislative authority in this area of Texas law. There has been some question as to the nature of the Legislature's authority under the vague constitutional prohibition against open saloons. H.J.R. 22 also contains a potentially controversial provision. The proposal would authorize the Legislature to provide for the consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within any county.

Other provisions slated for election in 1970 include H.J.R. 15, reconstituting the State Building Commission as a three-member board; H.J.R. 28, authorizing any county, on the vote of a majority of qualified property tax-paying electors, to issue road bonds in any amount not to exceed one-fourth of the assessed valuation of the real property in the county; H.J.R. 30, amending the disciplinary power of the State Judicial Qualifications Commission; S.J.R. 15, authorizing the Legislature to provide for the establishment of a uniform method of assessing ranch, farm, and forest lands; and S.J.R. 32, increasing to \$10,000 the value of the homestead which is exempt from forced sale.

Bills and Resolutions Vetoed

Governor Preston Smith, exercising his executive prerogative, vetoed 67 bills and resolutions passed by the Sixty-first Texas Legislature, exclusive of his line item vetoes of the biennial appropriations bill. Only three governors have used the negative more frequently, and then only cumulatively during their respective gubernatorial careers.¹³ However, the circumstances of Governor Smith's vetoes were somewhat unusual. Sixty-four of the 67 vetoes followed the regular session. Of these, 49 were vetoed for procedural reasons. The Governor believed that these bills were not passed in accordance with accepted constitutional practice. In identical messages, the Governor vetoed 12 Senate Concurrent Resolutions because they were "not timely presented to the Governor" and thus were in violation of Article IV, section 14 and Article IV, section 15 of the Texas Constitution. These constitutional provisions guarantee the Governor a 20-day period from the date the Legislature adjourns to consider and approve or veto bills and resolutions passed during the last 10 days of the legislative session. The 12 resolutions were sent to the Governor seven days *after* the close of

¹³ Fred Gantt, Jr., "The Governor's Veto in Texas: An Absolute Negative?" *Public Affairs Comment*, XV (March, 1969), 1-4.

the regular session. Governor Smith contended that such a practice denied him seven days of the constitutionally-sanctioned 20-day period.

In similar action, the Governor vetoed 38 House and Senate Bills. Not only were these bills sent to the Governor several days after the close of the session, the bills were not signed in the presence of both houses of the Legislature, and were not, therefore, passed "in accordance with the provisions of Article III, Section 38 of the Constitution of Texas." This group of bills contained the legislation creating 27 new district courts. Emphasizing that his objections were procedural and not substantive, the Governor in a television broadcast promised to open the special session of the Legislature to new business, enabling it to pass this legislation again, provided the Legislature first pass a two-year appropriations bill and an adequate tax measure. This was accomplished in the second called session, and the Governor signed an omnibus bill (S.B. 22) creating the new courts.

In addition to the bills vetoed because of technical objections, the Governor refused to approve 17 bills at (or near) the end of the regular session because of explicit substantive objections. Among these the one-year appropriations bill discussed at the beginning of the study is the most important; the 16 other bills merit some attention also.

In past years, the Legislature has authorized the transfer of revenue from earmarked funds to the General Revenue Fund to minimize the need for new taxes. Governor Smith objected to this practice in his veto of H. B. 1448, a bill providing for the transfer of \$14 million from the Drivers and Chauffeurs License Fund and the Motor Vehicle Inspection Fund to the General Revenue Fund. The Governor said he believed such practices circumvent the intent of the Constitution, if not its literal meaning. The Legislature also authorized state colleges and universities to charge a "facilities use" fee earmarked for faculty salaries in S. B. 847, another revenue-raising bill. Governor Smith noted in his veto message that there was already a "building use" fee imposed at the discretion of boards of regents for the construction and maintenance of building facilities. Moreover, the Governor continued, "any tuition increase should not be levied in disguise nor subterfuge, but should be directly approached on its merits."

Seven vetoed measures would have affected local government in some way. H. B. 117 contained the first version of the Tort Claims Act. The Governor objected to certain provisions in the law and exercised his veto. His chief exceptions were met, and a revised version became law. S. B. 785 would have altered the composition and function of the Juvenile Board of Harris County and the Harris County Child Welfare Board. The Governor suggested that more study was needed before such action could be justified, particularly in light of planned subcommittee hearings to be held in Harris County by the Senate Youth Affairs Committee. H. B. 1052 would have permitted judges to

set the salaries of their court reporters, without maximum limits, subject to the approval of the county commissioners court. Governor Smith believed that the bill would have given an undesirable measure of control to the commissioners court which might affect the district court's objectivity if the county government came before it as a litigant.

Three other locally-related proposals were vetoed for what Governor Smith thought was an unconstitutional delegation of law-making power. The provisions of each proposal would have had effect only after the approval of the appropriate commissioners court. H. B. 1411 would have provided for the salaries of the district attorney and his assistants in Harrison County; H. B. 1337 would have created a court of Domestic Relations in Harrison County; and H. B. 1412 would have provided salaries for the county judge in certain counties. The Governor also vetoed a local bill, H. B. 17, which related to the construction and maintenance of private roads by certain counties.

Three measures containing various business regulations were vetoed. H. B. 836 would have provided for the licensing and regulation of bail bondsmen. Although agreeing with the purpose of the legislation, the Governor stated his belief that the bill as written permitted bail bonds to be used as punishment devices, something for which they were not intended. The Governor agreed also with the ends of S. B. 329, requiring "safety glazing materials" in glass used in all types of construction and granting enforcement power to county health officials. But in his veto proclamation the Governor registered his view that, in the absence of adequate enforcement machinery, such legislation should await the adoption of a statewide building code. The Governor simply opposed H. B. 403, a bill that would have prohibited the display of certain weapons which may otherwise be lawfully purchased and owned. In his message, the Governor noted: "I feel that a merchant who is lawfully allowed to possess, purchase, and sell such items has an inherent right to display same at his own discretion."

Four other bills failed of gubernatorial approval for a variety of reasons. H. B. 1438 dealt with two separate subjects and thus was in violation of Article III, Section 33 of the constitution. H. B. 1023 resulted in "a serious legal problem in that it creates uncertainty as to the position of a good faith claimant's preferential rights to protect his title to vacancy lands." S. B. 218 would have allowed a "state agency to maintain an action not within the contemplation of the general laws of the state of Texas." Finally, the Legislature in creating by S. B. 416 a board of regents for Stephen F. Austin State College, called for both a six- and nine-man board. These provisions were so inharmonious as to render the legislation unworkable. Responding to this oversight, the Legislature during the second called session enacted by S. B. 64 a law creating the new nine-man board of regents for Stephen F. Austin University.

Bills and Resolutions Which Failed

Only about one-third of the bills introduced during each legislative session eventually become law. Of the 2,343 bills introduced in the regular session of the Sixty-first Legislature, 890 or 38 per cent were enacted, including those vetoed by the Governor. Thus, 1,453 House and Senate Bills failed; they were introduced but were not passed and sent to the Governor.

In order to complete a review of the work of the Legislature, it is necessary to discuss briefly some of the legislation that failed. Obviously, only a sample of the bills can be reviewed here. But this is all that is necessary since most of this legislation mirrors the bills that become law; it is of the same general scope and character. For example, many bills were introduced providing for new universities, colleges, and professional schools. H. B. 70 would have created a medical school at Amarillo; H. B. 468, a medical school at Temple; S. B. 214, a dental school at Austin; and S. B. 420, a dental school at Amarillo. In a related measure, and one that caused some controversy, S. B. 461 proposed that Texas A&M University acquire the South Texas School of Law, a private law school located in Houston. Objections were raised by supporters of law schools at the University of Houston and Texas Southern University, both located in the same city.

A group of bills were introduced to implement the recommendations of the Governor's Committee on Public School Education, a blue-ribbon committee originally appointed by former Governor John Connally. After three years study, the Committee in a report to the Sixty-first Legislature made recommendations for improving the quality of public school education in Texas.¹⁴ Among the more contentious recommendations was a suggestion for the merger of some of the states smaller school districts. Opposition to the Committee's recommendation was so vocal and apparently so widespread, that the package of bills advertised as the means of implementing the Committee's recommendations never had a chance in the Legislature. However, many elements of the Committee's report were endorsed and found their way into law in less controversial legislation.

Many bills were introduced to alter the pattern of administration in state government, either by creating new agencies or reorganizing existing agencies. Thus, a new Local Government Assistance Agency was proposed by H. B. 196 and a Department of Labor by H. B. 831. S. B. 509 proposed the centralization

¹⁴ For a discussion of the Committee's report, see Glenn H. Ivy, "Contrast and Continuity in Texas Public Education: 1948 and 1968," *Public Affairs Comment*, XIV (November, 1968), 1-4.

of certain services required by all state agencies, and S. B. 798 would have created the office of ombudsman.

Business and economic regulation of all types would have been affected substantially if all of the legislation in this area had become law. Legislation was introduced to regulate the practice of physical therapy (H. B. 34), to register and regulate trade schools (H. B. 152), to license air conditioning and ventilation contractors (H. B. 469), to license pesticides and exterminators (H. B. 652), and to license second-hand dealers (H. B. 851). Finally, H. B. 543 proposed the creation of a state-wide public utilities commission.

No area of public policy has received as much public attention of late as criminal law and criminal procedure. This concern often is translated into legislation, much of which is successful, much of which fails of legislative approval. For example, H. B. 35 proposed a change in the law of criminal trespass. H. B. 195 would have changed the law governing the procedures for oral confessions. H. B. 247 would have assessed criminal penalties for certain obscene acts. And H. B. 285 would have abolished adultery by the wife as a justification for homicide. In related matters, the Legislature considered the creation of new courts in Harris County (H. B. 218) and Dallas County (H. B. 714), among others. Several proposals would have required the use of a jury wheel in all counties.

Numerous proposals were made to alter the state's election laws: H. B. 223 would have lowered the voting age to 18; H. B. 211 would have substantially altered the state's voter registration laws; H. B. 625 would have abolished the unit rule in all elections; H. B. 633 proposed a presidential primary election in Texas; H. B. 803 would have provided for annual voter registration in Texas cities; and H. B. 1191 would have provided a school for the instruction of election officials.

Other measures would have affected almost every area of public life in Texas, had they been enacted. They ranged from proposals to exempt the state from the use of Daylight Savings Time (H. B. 82) to extensive revision of the law governing the regulation of banks (S. B. 169). Many of these bills were competing proposals for legislation that did pass, many were introduced without any chance of adoption, many were defeated in committee or on the floor of the Senate or House. On the other hand, many of these proposals will eventually become law, enacted by future legislatures in some future time.

APPENDIX A

Other Bills and Resolutions Enacted by
the Sixty-first Texas Legislature

APPENDIX A

OTHER BILLS AND RESOLUTIONS ENACTED BY THE SIXTY-FIRST TEXAS LEGISLATURE

TAXATION, FINANCE, AND ADMINISTRATION

Taxation and Finance

H.B. 74. Providing procedures relating to liens on property for taxes and sums due the state under the Texas Unemployment Compensation Act.

H.B. 322. Providing that a tax collector may issue certification that property is free of back taxes, or certification that taxes owed accrued under a previous owner, thereby making such a tax the personal liability of the prior owner.

H.B. 1092. Authorizing the Comptroller of Public Accounts, when he determines that any tax due is insecure, to require a cash deposit, a surety bond, or other security as a condition for the taxpayer remaining in business.

H.B. 1158. Requiring payment in full by August 31 for stamps or meter settings by cigarette distributors, regardless of when in August the stamps and settings were acquired.

S.B. 529. Providing the content of the Franchise Tax Report to be filed by corporations with the Comptroller of Public Accounts.

Administration

H.B. 102. Allowing non-elective state officers or employees to hold other non-elective positions under the state or the United States, if such holding is of benefit to the state or required by federal law, and if there is no conflict.

H.B. 112. Changing to Mondays the observance of certain holidays.

H.B. 203. Authorizing state departments who operate motor vehicles to insure their officers and employees against liability.

H.B. 358. Amending the organization and powers of the Board of Nurse Examiners.

H.B. 371. Exempting from liability for death, injury or damage any person or firm under contract to provide the state with construction equipment or work during civil defense activities or times of extreme emergency.

H.B. 378. Authorizing the Highway Commission to insure officers and employees of the Department from liability arising from the use, operation, and maintenance of equipment.

H.B. 394. Transferring authority under the Texas Water Safety Act from the Highway Department to the Parks and Wildlife Department.

H.B. 414. Authorizing the Parks and Wildlife Commission to acquire interest in real property and manage it within the parks system.

H.B. 513. Specifying those who may be buried in the state cemetery.

H.B. 516. Relating to the organization and powers of the Texas Board of Architectural Engineers.

H.B. 526. Allowing the Texas Turnpike Authority, under certain conditions, to finance cost and feasibility studies.

H.B. 574. Raising the daily compensation for members of the Board of Medical Examiners to \$50.

H.B. 632. Providing that a state employee who is a member of the National Guard and is called to active duty by the Governor because of an emergency is entitled to receive emergency leave without loss of military or annual leave.

H.B. 634. Directing the Parks and Wildlife Commission to transfer control and custody of the Washington-on-the-Brazos Museum Building and its contents to Blinn College.

H.B. 664. Authorizing the Department of Mental Health and Mental Retardation and the Texas Youth Council to construct and maintain certain buildings and facilities.

H.B. 695. Authorizing the Texas Youth Council to convey certain land in Houston County to the Houston County Development Foundation.

H.B. 739. Amending the Texas Banking Code to provide for the organization and procedure of the Finance Commission.

H.B. 790. Creating the Texas Conservation Foundation.

H.B. 792. Creating the Texas Tourist Development Board.

H.B. 823. Recodifying the law relating to the Aeronautics Commission and the Director of Aeronautics.

H.B. 895. Continuing the Texas Civil Judicial Council for the study of the organization, rules, procedure, and practice of the civil judicial system.

H.B. 1049. Deleting the requirement that the Governor mail various state officials and agencies copies of his proposed budget on or before December 15 immediately preceding the regular session of the Legislature.

H.B. 1457. Transferring authority and responsibility for the preservation of Gethsemane Church from the Building Commission to the Historical Survey Committee.

- S.B. 16. Deleting the requirement that the state librarian have bound certain newspapers and journals.
- S.B. 21. Creating the John F. Kennedy Memorial Commission.
- S.B. 22. Changing the eligibility and jurisdiction of notaries public.
- S.B. 39 (Second called session). Adding a chairman to be appointed by the Governor to the Governor's Committee on Aging.
- S.B. 110. Creating a Commission for Rehabilitation of Handicapped Individuals.
- S.B. 128. Providing for the appointment of an Executive Director of the Industrial Commission.
- S.B. 158. Relating to the authority of the Commissioner of the General Land Office over the production of sulphur.
- S.B. 159. Providing a manner in which the requirement for lettering state vehicles may be waived for vehicles under the control of the Department of Mental Health and Mental Retardation, the Department of Corrections, and the Texas Youth Council.
- S.B. 174. Authorizing expense payments of \$25 per day to members of the Board of Registration for Public Surveyors.
- S.B. 244. Amending the law specifying requirements to be followed in applying for financial assistance from the Texas Water Development Fund.
- S.B. 260. Amending the Open Meetings Act of 1967 to provide for posting written notice of meetings.
- S.B. 263. Establishing the Legislative Reference Library as an independent agency of the Legislature.
- S.B. 267. Authorizing the Board of Corrections to exchange certain land with private parties.
- S.B. 297. Creating the Texas Distinguished Service Medal.
- S.B. 322. Transferring jurisdiction over the Office of State Archeologist from the Building Commission to the Historical Survey Committee.
- S.B. 325. Authorizing the Executive Director of the Parks and Wildlife Department to commission as peace officers any of the Department's employees provided for under the General Appropriations Bill.
- S.B. 330. Instructing each agency to account for all personal property owned by the state and possessed by the agency.
- S.B. 571. Accepting as part of Texas the land acquired by the United States from the United Mexican States by virtue of the Convention for the Solution of the Problem of the Chamizal.

S.B. 632. Authorizing the Board of Corrections to exchange lands with certain parties.

S.B. 701. Creating the American Revolution Bicentennial Commission (of Texas).

S.B. 723. Authorizing the Teacher Retirement System to photograph, microphotograph or film certain records.

S.B. 722. Extending the mineral leases on certain state lands.

REGULATION OF BUSINESS AND PROFESSIONS

General Business Regulations

H.B. 49. Authorizing the State Department of Health to license and regulate persons and plants engaged in the picking, pasteurization, storage, transportation, and sale of crab meat.

H.B. 108. Creating a 10-year time limit for bringing suit against a registered or licensed engineer or architect as a result of injury, damage, or death due to defective or unsafe conditions of real property.

H.B. 248. Amending the Texas Water Well Drillers Act to restate the rule-making authority of the Water Well Drillers Board and to repeal the requirement that each registered water well driller post a \$2000 bond against suit by an injured party.

H.B. 433. Exempting from common law liability the loss of baggage and personal effects carried by railroads when such transportation is incident to the carriage of the passenger and when rates are based on the declared value of the baggage.

H.B. 462. Making technical and administrative changes in laws regarding a franchise to operate in Texas.

H.B. 600. Requiring licenses of those who as a business transport house trailers, trailers, and semi-trailers from the manufacturer to any point within the state.

H.B. 712. Providing for the making and keeping of records by pawnbrokers.

H.B. 733. Authorizing the Parks and Wildlife Department to issue numbered licenses to fish farmers operating a business on private land.

H.B. 761. Holding void and unenforceable certain contracts dealing with the construction or repair of real property that indemnifies or holds harmless by the contractor, a registered architect, or registered engineer.

H.B. 805. Increasing from one volt to three volts the allowed voltage that may be used by commercial Gulf Coast shrimp boats.

H.B. 947. Authorizing the owner of a parking lot or his agent to remove and store, at the expense of the automobile's owner, any automobile parked without authorization.

H.B. 1043. Removing the requirement of furnishing a copy of all daily gauges of tanks connected with oil and gas production and storage.

H.B. 1046. Amending the Texas Business Corporation Act to provide a new schedule for filing fees collected by the Secretary of State.

H.B. 1132. Authorizing the Attorney General to bring action on behalf of the state, its subdivisions, or its tax-supported institutions to recover damages provided for by federal antitrust laws.

H.B. 1208. Declaring confidential all records and proceedings of any hospital committee, medical organization committee, or extended care facility committee.

H.B. 1218. Prohibiting a mortgage lender from requiring that a borrower procure a policy of insurance from any particular agent, solicitor, broker, or insurer.

S.B. 7 (Second called session). Providing that the remaining trustees originally appointed to a valid charitable trust may appoint trustees to fill any vacancies that may occur.

S.B. 88. Providing qualifications for directors of state banks.

S.B. 127. Relating to certain definitions and fees.

S.B. 182. Authorizing the Railroad Commission to adopt safety standards for the transportation of gas and for all gas pipeline facilities not subject to exclusive federal control.

S.B. 215. Establishing categories and fees for licensing dealers in liquid petroleum gas.

S.B. 387. Requiring that the "general prevailing rate or per diem wages" be paid for construction or repair work that is considered to be "public works."

S.B. 458. Amending the Texas Business Corporation Act to provide for the merger of a subsidiary into the parent corporation.

S.B. 460. Giving the operator of any residential house, apartment, or duplex a lien on certain baggage and other property within a tenant's dwelling for all rents due and unpaid.

S.B. 468. Declaring that the Uniform Common Trust Fund Act shall for all purposes be considered a portion of the Texas Trust Act.

S.B. 526. Authorizing the International Commerce Development Corporation to maintain a foreign trade zone at the Fort Worth Port of Entry.

S.B. 534. Providing that anyone receiving anything unordered in the mail except goods received due to a bona fide mistake may consider such goods a free gift.

S.B. 603. Amending the Texas Non-Profit Corporation Act relating to a change in a registered agent or office, to the resignation of a registered agent, and to involuntary dissolution.

S.B. 604. Amending the Texas Business Corporation Act relating to a change in a registered agent or office; to the resignation of a registered agent; to involuntary dissolution; and to the revocation of a certificate of authority of a foreign corporation.

Agriculture

H.B. 107. Authorizing the Egg Marketing Advisory Board to promulgate grades and sizes of eggs lower than those set by the United States Department of Agriculture.

H.B. 293. Requiring any person feeding garbage to swine to register with and secure a permit from the Livestock Sanitary Commission.

H.B. 294. Granting virtual patent rights for newly developed varieties of cotton strains.

H.B. 960. Adding various products to the list of those to be promoted by the state.

S.B. 90. Providing guidelines to the Animal Health Commission for use in supervising the dipping of livestock.

S.B. 229. Exempting certain size sales from the regulation of dealers in herbicides.

S.B. 284. Adding pullorum, typhoid, and typhimullin to the list of diseases veterinarians must report to the Animal Health Commission.

S.B. 479. Removing the legislative definition of "hybrids" and authorizing the Commissioner of Agriculture to prescribe and regulate them.

S.B. 744. Amending the law relating to the warehousing of cotton under lien.

S.B. 799. Extending the provisions of the Texas Equal Health Standards Milk Sanitation Act of 1961 to certain milk products imported to Texas.

Regulation of Services and Professions

H.B. 359. Regarding evidence of qualification and registration with the State Board of Nurse Examiners of anyone offering to practice professional nursing, regardless of whether such person claims to be a professional nurse.

H.B. 452. Providing that an applicant for a funeral director's license who has not completed one year of apprenticeship shall be admitted to apprenticeship only if he makes a grade of 70 per cent or higher on the examination given by the Board of Morticians.

H.B. 491. Lowering the score that must be made by an applicant for a license to practice the science of embalming to 70 per cent.

S.B. 5 (Second called session). Making minor changes in the law governing the practice of dentistry and dental hygiene. The practice of dental hygiene is broadened to include such "other services and procedures as may be prescribed by the Texas State Board of Dental Examiners in its Rules and Regulations"; the definition of "dentistry" now excludes Dental Health Service Corporations and dental interns, residents, and assistants as defined and regulated by the Texas State Board of Dental Examiners.

S.B. 73. Providing for the identification to be used by persons licensed by the Board of Podiatry Examiners.

S.B. 98. Providing for an optional way one may qualify to take the examination given by the State Board of Hairdressers and Cosmetologists.

S.B. 287. Creating the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

S.B. 388. Enacting the Texas Nursing Home Administrators Licensure Act.

S.B. 523. Relating to the licensing fees for the practice of veterinary medicine.

BANKING, CREDIT, INSURANCE, AND SECURITIES

H.B. 190. Exempting for the provisions of the Insurance Code interests in certain producing minerals or producing royalties.

H.B. 397. Amending the Texas Savings and Loan Act to allow, under certain conditions, the issuance of permanent reserve fund stock and capital obligations.

H.B. 685. Authorizing the Banking Section of the Finance Commission of Texas to set and adjust a uniform fee to be charged by the Banking Commissioner for each application for a charter for a state bank or a bank and trust company.

H.B. 704. Directing the Board of Insurance to revoke the certificate or authority to transact business in this state of any alien insurance company that fails to service claims in compliance with the Insurance Code.

H.B. 965. Amending the Texas Savings and Loan Act to permit a new association to submit and prove the qualifications of its proposed managing officer before, during, or after other determinations are made by the Savings and Loan Commissioner.

H.B. 1128. Requiring that a group life insurance policy be filed with the Board of Insurance before it is issued.

S.B. 10 (Second called session). Reducing from three to two years the period during which the issuer of an accident and sickness policy may assert certain claims.

S.B. 12 (Second called session). Amending the law relating to a change in the licensing of a life insurance counselor, prohibiting advertising, and prohibiting dual compensation.

S.B. 35 (Second called session). Amending the law relating to "garage insurance" issued to one engaged in the business of "selling, servicing or repairing motor vehicles."

S.B. 81. Extending coverage of group term life insurance to insure the spouse and children of an insured employee of the federal government.

S.B. 342. Empowering the Insurance Commissioner to cancel, suspend, or revoke the temporary appointment powers of any life insurance company, if, after notice and hearing, he finds that such powers are being abused by the company.

S.B. 348. Permitting the licensing of corporations as local recording agents.

S.B. 466. Adding investment trusts and mutual funds to those properties which a trustee may ordinarily acquire.

S.B. 469. Providing that signatures on assignment of securities may be guaranteed by any incorporated bank in the United States and all unincorporated banks licensed to do business in Texas or any member of the New York Stock Exchange.

S.B. 470. Specifying that Section 33.09 (Territorial Application) of the Business and Commerce Code applies to National Banking Associations.

S.B. 507. Allowing any insurance company qualified to transact fidelity and surety insurance business in Texas to become surety not to exceed \$200 with respect to each bail bond certificate issued yearly by auto clubs and truck and bus associations incorporated in this state.

S.B. 546. Amending the Texas Agents Qualifications and License Law for Agents of Reserve Life Insurance Companies to redefine "life insurance agent."

S.B. 574. Adding elective and appointive officials of the state to those who may participate in group insurance.

S.B. 576. Authorizing the Board of Insurance to promulgate and enforce certain rules in order to achieve uniformity with the laws of other states or with the adopted procedures of the National Association of Insurance Commissioners.

S.B. 601. Applying Article 3.42 of the Insurance Code to the approval of policy forms for life, health, accident, sickness, and hospitalization insurance policies.

S.B. 761. Regarding the definition of "surplus lines agent" and the licensing of such agents.

COURTS, COURT PROCEDURE, AND CRIMINAL LAW

Courts and Court Procedure

H.B. 94. Authorizing the court to change the time for adoption hearings.

H.B. 245. Providing for a presumption of the time of death upon a statement by a licensed physician.

H.B. 339. Extending for 30 days any applicable statute of limitations to allow for a filing of a counterclaim or cross claim that arises out of the same occurrence as the opposing party's suit.

H.B. 398. Setting the pay for jurors in Justice Courts (civil cases) at \$3 per case, with a maximum of \$6 per day.

H.B. 541. Providing compensation from county funds for court appointed counsel in habeas corpus hearings.

H.B. 707. Providing for the admission into evidence of certain records and copies of records, x-rays, and the like.

H.B. 709. Prohibiting the admission into evidence of the settlement of a claim for property damage and/or payment of medical expenses in a lawsuit for damages for personal injuries suffered in the same occurrence on which the property damage and/or medical expense claim was based.

H.B. 749. Making all accident reports public records.

H.B. 753. Adding "reasonable attorneys' fees" to what may be recovered in suit against a payment bond executed by a contractor.

H.B. 758. Requiring the recorder of a corporation court to charge the jury when requested in writing by the defendant or his attorney, and providing for a directed verdict of "not guilty" in certain circumstances.

H.B. 769. Removing the exemption of divorce cases and contests of elections from the cases that may be heard in a district court containing more than one county, assuming a jury is not required and the case is uncontested.

H.B. 895. Continuing the Civil Judicial Council.

H.B. 1088. Requiring the issue of present insanity to be tried in advance of a trial on the merits, upon written application on behalf of the accused.

H.B. 1241. Authorizing the district court where the land is situated to appoint a receiver for the contingent interests covered by a mineral lease and to authorize pooling of the contingent future interests in the lease, if such action is necessary to protect rights or conserve property.

S.B. 3 (Second called session). Creating the 186th Judicial District and a district court in Bexar County.

S.B. 148. Requiring that all complaints made against a law enforcement officer or fireman be made in writing and signed by the person making the complaint.

S.B. 206. Providing for a free copy of a reporter's notes to be included on the appeal of a delinquent child if the court finds those in charge of the care of the child are too poor to pay for the record.

S.B. 207. Relating to the appointment of counsel for a delinquent child.

S.B. 384. Providing that suits to enjoin strikes or picketing for an unlawful purpose may be brought in certain other counties than the one where the offense is alleged to have occurred, if service cannot be had on any of the defendants in the original counties.

S.B. 424. Removing the freeholder-householder qualification for jurors.

S.B. 437. Allowing the lessors of a safe deposit box to permit the spouse, parent, or adult descendant of the person named as the executor of an estate in the copy of a purported will to open the box leased by a decedent and deliver to the court any will, deed to a burial plot or burial instructions, or any insurance policy on the life of the decedent.

S.B. 464. Providing for hearing and judgment in divorce suits outside of the county of residence if no answer has been filed or if the parties agree to removal to another county.

S.B. 502. Relating to reimbursement in certain eminent domain proceedings.

S.B. 569. Providing for post-commitment sanity hearings for certain persons.

S.B. 611. Authorizing certain custodial rights and duties under the Texas Uniform Gifts to Minors Acts.

S.B. 779. Providing that when an inquest is required, and the justice of the peace refuses or fails to act, the inquest shall be conducted by the nearest available justice of the peace, corporation court judge, county judge, or judge of the county court at law of the county in which the death occurred.

Probate Code

H.B. 1097. Expanding the definition of "estate" to include "any person to be distributed to the representative of the decedent by the trustee of a trust which terminates upon the decedent's death," and adding the stipulation that when

a person dies, leaving a lawful will, all powers of appointment granted in the will shall vest immediately in the donees of such power.

S.B. 9. Making numerous changes in regard to wills and records.

S.B. 272. Changing the exemption for the collection of estates on affidavit from \$1,000 to \$2,500.

S.B. 274. Increasing to \$1,500 the maximum on monies paid the county clerk for withdrawal by the creditor minor on a small estate.

S. B. 337. Providing venue for proceedings for the appointment of a guardian in the event both parents of a minor child die in a common disaster, with no evidence that one outlived the other.

S.B. 471. Calling for liberal construction of the Rule Against Perpetuities so as to give effect to the general intent of the creator of the interest so far as is possible.

S.B. 484. Authorizing any natural or adopted parent of a minor who is not a ward to apply to the court for an order to sell certain property of the minor, when the value of the property does not exceed \$1,500.

S.B. 595. Relating to the application to the court by a corporate guardian of any estate for permission to invest in certain property or securities.

S.B. 733. Relating to the registration and holding of stocks, bonds, and other personal property of an estate.

Criminal Law

H.B. 66 (Second called session). Reenacting a provision of the Penal Code of Texas; the section, setting the penalty for forgery, was inadvertently repealed in the adoption of the Texas Education Code.

H.B. 104. Raising to \$100 the minimum fine for transporting a motor vehicle for hire without a permit.

H.B. 417. Providing a penalty of two years to life imprisonment for any person assaulting a peace officer with the intent to murder while the officer is in performance of his duty, if the offender knows that the other person is a peace officer.

H.B. 472. Changing the penalty for shooting a firearm in, on, along, or across any public road.

H.B. 795. Prohibiting racing in a parking area without the written consent of the owner of the area.

H.B. 957. Making it unlawful to take fish from a fish farm without the consent of the owner.

H.B. 1074. Increasing penalties for parents or guardians who, after written warning, fail to require their child or ward to attend school regularly.

S.B. 5. Amending the Penal Code to define the offense of air pollution, provide for prosecution, and provide for a fine of \$10–\$1,000 for individuals or corporations.

S.B. 6. Amending the Penal Code to define the offense of water pollution, provide for prosecution, and provide for a fine of \$10–\$1,000 for individuals or corporations.

S.B. 13. Making it unlawful to draw a check in payment of wages or salaries for personal services, knowing that sufficient funds are not on deposit, and without “good” reason for believing that the check will be paid upon presentation.

S.B. 13 (Second called session). Making it a misdemeanor for any person actively engaged in commercial harvesting of trees to cut a tree or a limb willfully causing it to fall on any electric transmission or distribution line or a telephone line or cable so as to disrupt the service.

S.B. 94. Authorizing citizens of Texas, if not otherwise precluded by law, to purchase firearms, ammunition, or firearm accessories in states contiguous to Texas.

S.B. 135. Relating to nonviolent burglary or robbery as a bar to a person’s carrying a “prohibited weapon” away from his living premises.

S.B. 302. Prohibiting buying, selling, or altering any academic record with the intent to use it fraudulently.

S.B. 417. Punishing the use or exhibition of a firearm in resisting a lawful arrest by two to 10 years in prison.

S.B. 536. Prohibiting the solicitation of advertising in the name of a club or group without written permission.

S.B. 600. Making it unlawful for a person whose license as an insurance agent or insurance solicitor has been revoked to function in that capacity.

ELECTIONS

H.B. 44. Raising from \$1.25 to \$2.00 the maximum per hour wage for judges and clerks of elections and providing minor changes in working hours.

H.B. 321. Setting the rate of pay for judges and clerks of general and special elections when the elections are joint.

H.B. 582. Limiting the necessary publication of proposed constitutional amendments to “the text of the joint resolution below the resolving clause.”

S.B. 8 (Second called session). Amending the Texas Election Code relating to the methods of applying for voter registration and to the information required on the application and registration certificate.

S.B. 264. Adding religious belief to the list of legitimate reasons for which one may be permitted to vote absentee.

S.B. 454. Specifying filing fees for candidates for various elective offices, depending on the size of the county.

EDUCATION

General Higher Education

H.B. 3. Revising residence requirements for students, particularly with regard to the armed forces.

H.B. 47. Providing for the removal of disabilities of a minor applying to become a peace officer in Texas, and authorizing the governing boards of private institutions of higher education to employ campus security personnel.

H.B. 137. Changing the name of James Connally Technical Institute of Texas A&M University to the Texas State Technical Institute, and creating a board of regents.

H.B. 139. Authorizing the Board of Directors of Texas A&I University to sell certain state owned land.

H.B. 242. Transferring control and management of East Texas State University from the Board of Regents, State Senior Colleges, to a new body called the Board of Regents of East Texas State University.

H.B. 288. Authorizing conveyance of land by the Chairman of the Board of Directors of Texas Tech College to Lubbock County Hospital District to be used for hospital facilities for teaching at the Medical School of Texas Tech College.

H.B. 393. Authorizing the Chairman of the Board of Directors of Texas Tech College to convey certain land of the college to the Western Information Network Association.

H.B. 479. Raising the authorized ceiling for student fees for the operation of the Union at The University of Texas at Austin to \$10 per student per long semester and \$5 per student for summer semesters.

H.B. 923. Changing the name of the Texas Technological College to Texas Tech University.

H.B. 996. Authorizing the Coordinating Board, Texas College and University System, to appoint a secretary of the Board.

H.B. 1063. Authorizing school districts to furnish transportation to and from the nearest college or university for residents of the district who are enrolled.

H.B. 1225. Authorizing the Board of Regents of The University of Texas System to acquire certain land in El Paso County to be used for campus expansion and other university purposes at The University of Texas at El Paso.

H.B. 1267. Authorizing the Board of Directors of Texas A&I University to convey to the Commissioners Court of Kleberg County a tract of land on which to build a stadium, subsequently to be leased to A&I for 99 years.

H.B. 1420. Authorizing Bexar County to donate and convey land to the Board of Regents of The University of Texas System to be used as a site for a university.

S.B. 87. Authorizing the Board of Regents of Texas Woman's University to sell certain land and establish with the proceeds a Caroline Bellamy Music Scholarship.

S.B. 93. Transferring control of West Texas State University from the Board of Regents, State Senior Colleges, to a new body called the Board of Regents, West Texas State University.

S.B. 96. Authorizing the Board of Directors of the Texas A&M University System to issue revenue bonds for the purpose of extending and improving water and sewer facilities.

S.B. 115. Providing the powers of the Board of Regents of Texas State Technical Institute.

S.B. 173. Giving the Board of Directors of Texas A&M University the sole and exclusive management and control of lands and mineral interests under its jurisdiction excluding any lands or minerals held by the General Land Office.

S.B. 239. Authorizing the Board of Regents of The University of Texas System to acquire by gift certain land for the use and benefit of Texas M. D. Anderson Hospital and Tumor Institute.

S.B. 279. Authorizing faculty members participating in the Optional Retirement Program to enter into a salary reduction agreement, a means whereby the faculty members can reduce their annual federal income tax liability.

S.B. 399. Authorizing the governing board of each state-supported senior college and university to issue its revenue bonds to acquire certain facilities.

S.B. 415. Changing the names of certain state colleges to indicate university status, including Stephen F. Austin State, Sam Houston State, Southwest Texas State, Sul Ross State, and Angelo State.

S.B. 655. Providing for the approval of vouchers by the Chairman of the Board of Regents or the institutional head of a component institution of The Uni-

versity of Texas System, or their delegates, for expenditures made by order of the Board of Regents.

S.B. 747. Providing for the appointment and powers of the Board of Regents of Texas Technological College.

S.B. 788. Conferring on the Board of Regents of the University of Houston the power to acquire and dispose of lands and other real property.

Higher Education: Junior Colleges

S.B. 67. Providing a formula for selecting members of the board of trustees of junior college districts. Subsequently repealed by S.B. 300.

S.B. 280. Removing the prohibition against faculty of public junior colleges being granted leaves of absence.

S.B. 300. Repealing S.B. 67 and providing another formula for selecting members of the board of trustees of junior college districts.

S.B. 303. Adding the governing boards of all public junior colleges to a list of governing boards that may retain control of various student fees, deposits, receipts, and the like.

S.B. 449. Authorizing certain junior college districts to operate under an expanded board of regents on the majority vote of the present board of regents.

S.B. 739. Providing a method for including certain land within the boundaries of any junior college district, under certain conditions.

Public Education

H.B. 21 (Second called session). Providing an alternative technique for determining the allocation of the Foundation School Program Professional Units; a school district may use the preceding year's Average Daily Attendance to establish the basis of the allocation in lieu of current Average Daily Attendance.

H.B. 22 (Second called session). Providing an allocation formula for small school districts for the Foundation School Program.

H.B. 23. Providing that in calculating an economic index of the financial ability of each county to support the Foundation School Program, the Commissioner of Education shall calculate the value of cattle and other animals sold in feed lots at the net increase in value while in the feed lot.

H.B. 30. Repealing the requirement that the county auditor keep financial records of all school districts in his county.

H.B. 148. Removing the stipulation that in order for a school district to receive an additional adjustment because part of its scholastic population is made up of

those attending tax exempt institutions for orphans, dependent and neglected children, the institution must be in the school district.

H.B. 338. Defining "scholastic population" to avoid the necessity of an annual census for the purposes of distributing the Available School Funds.

H.B. 389. Providing a form independent school districts "may use" for the collection of delinquent taxes.

H.B. 443. Raising to two per cent of the assessed valuation of a district the total interest bearing time warrants that may be issued by a school district and raising to \$60,000 the total outstanding warrants allowable.

H.B. 483. Allowing a school district to postpone briefly the transfer of its funds from one bank to another as ordered by the commissioners court.

H.B. 534. Adopting the Texas Education Code, a revision of the general and permanent statutes relating to public education.

H.B. 959. Allowing a school district that contains a federally-owned reservoir and a federally-owned recreation area to receive proportionate credit for such area as the area bears to the total area of the district to determine the amount of local funds that the district shall be assigned to raise toward the financing of its foundation school program.

H.B. 1094. Relating to the offices and powers of the Western Information Network Association.

S.B. 163. Removing from a child transferring to a school district in an adjoining county the necessity of showing that the school in the district in which he resides is inaccessible to him because of distance or some uncontrollable and dangerous obstacle. Repealed by S.B. 435.

S.B. 172. Validating all school district boundaries, bond issues, and the like, providing such are not currently objects of litigation.

S.B. 199. Giving each public school teacher at least one period of not less than 45 minutes in each school day for planning and preparation.

S.B. 435. Repealing earlier laws regarding the transfer of public school children from one district to another, and authorizing such transfers under certain conditions.

S.B. 498. Authorizing each public school district to establish a required retirement age for all its professional and supervisory personnel.

S.B. 684. Authorizing the establishment of a program of financial assistance for computer services to school districts of the state through Regional Education Service Centers.

Special Education

H.B. 432. Giving continued existence to an advisory council for the study of language handicapped children.

H.B. 897. Authorizing the Central Education Agency, under rules of the State Board of Education, to contract with private schools for the deaf to provide education and training for deaf children.

S.B. 35. Authorizing the Board of Corrections to operate schools at the various units of the Department for the education of inmates who are not high school graduates.

S.B. 152. Making split time high school/vocational students count in their home district for Average Daily Attendance purposes and in the vocational school district for purposes of vocational teacher allotments.

S.B. 208. Providing for the transfer of blind or deaf children without adequate facilities in their own district to the Texas School for the Blind or Deaf.

HEALTH AND WELFARE

Public Health

H.B. 167. Setting depth requirement for burying dead human bodies.

H.B. 212. Authorizing the transfer of a patient from a state school for the retarded to a mental hospital, if a transfer would be in the best interest of the patient.

H.B. 213. Authorizing the transfer of a patient from a state mental hospital to a state school for the mentally retarded, if a transfer would be in the best interest of the patient.

H.B. 287. Granting a state agency administering a program of vocational rehabilitation the authority to supply extended rehabilitation services.

H.B. 681. Granting minors the right to consent to examination and treatment by a licensed physician for any venereal disease.

H.B. 833. Authorizing the creating of a pilot program at the East Texas Tuberculosis Hospital for the treatment of persons with various respiratory diseases.

H.B. 950. Requiring those in charge of a clinical laboratory to report positive findings of venereal disease to the Communicable Disease Services Section, Department of Health.

H.B. 1348. Amending the Texas Food, Drug and Cosmetic Act.

H.B. 1354. Increasing the maximum fee which may be charged for performing an autopsy and other tests to \$300.

S.B. 5. Amending the Penal Code to declare air pollution a crime and providing fines of \$10–\$1,000.

S.B. 6. Amending the Penal Code to declare water pollution a crime and providing fines of \$10–\$1,000.

S.B. 187. Authorizing the Department of Mental Health and Mental Retardation to construct and maintain a special facility for the resocialization, training, education, rehabilitation, supervision, treatment, care, and control of the mentally ill and mentally retarded.

S.B. 487. Transferring certain land from the Texas Department of Mental Health and Mental Retardation to the Texas Commission for the Blind to be used for the Texas Rehabilitation Center for the Blind.

S.B. 532. Changing the name and function of the McKnight State Tuberculosis Hospital and transferring the hospital to the Department of Mental Health and Mental Retardation.

S.B. 735. Placing certain foster care residential facilities under the definition of “institution” for purposes of licensing by the Department of Health, in order that such facilities may be eligible for vendor payments under federal law.

S.B. 751. Establishing a state policy to encourage and enable persons who are blind or otherwise physically handicapped to achieve maximum personal independence.

S.B. 757. Raising the maximum allowable homestead to \$10,000.

Occupational Health and Welfare

S.B. 42. Providing that injured employees eligible for artificial appliances shall be furnished them until a satisfactory fit is obtained in the judgment of the attending physician; amending the Workmen’s Compensation Act.

S.B. 574. Adding elective and appointive officials of the state to those who may participate in group insurance.

S.B. 579. Applying certain parts of the General Workmen’s Compensation Act to certain employees of the Texas Highway Department.

S.B. 580. Applying certain parts of the General Workmen’s Compensation Act to certain county employees.

S.B. 608. Amending the Texas Unemployment Compensation Act to provide a new formula for determining if an individual is eligible to receive benefits.

S.B. 664. Applying certain parts of the General Workmen’s Compensation Act to employees of The University of Texas.

S.B. 800. Providing a new effective date for the General Workmen’s Compensation Act.

Retirement, Pensions, and Benefits

H.B. 24. Increasing to \$150 the monthly pension paid to widows of Confederate veterans.

H.B. 96. Adding certain state officials and government employees to those whose surviving spouse and minor children are to be paid death benefits in the event of the employee's violent death in the performance of duty.

H.B. 680. Providing, for pension purposes, that the time served in the state legislature by any judge shall count as part of his length of judicial service.

H.B. 774. Requiring, on the death of a full-time, non-elective state employee, payment to his estate for all the employee's accumulated vacation leave and for one-half of his accumulated sick leave.

H.B. 1065. Including certain legislative officers in those eligible for membership in the Retirement System for State Employees.

S.B. 285. Redefining what may be withdrawn by persons leaving the Optional Retirement Program for Teachers.

S.B. 389. Changing the retirement schedule for judges.

S.B. 397. Amending the Firemen's Relief and Retirement Fund to remove certain exemptions.

S.B. 418. Providing liberalized retirement, disability, and death benefits for state elected officials.

S.B. 473. Regarding the authority to modify benefits and eligibility under the Firemen's Pension Act.

S.B. 528. Extending the Optional Retirement Program to the Coordinating Board, Texas College and University System.

S.B. 849. Providing for the retirement of a judge because of a disability.

HIGHWAYS AND MOTOR VEHICLES

H.B. 12. Requiring a person forced to drive in the left hand lane because of construction to yield to oncoming traffic.

H.B. 84. Clarifying and expanding the law relating to yielding right-of-way at intersections.

H.B. 362. Providing that driver's license may be granted under certain conditions to 15-year-olds enrolled in a vocational education program.

H.B. 363. Authorizing a judge holding a hearing on the suspension or revocation of the driver's license to grant probation.

H.B. 367. Prohibiting the operation on public streets and highways of slow-moving vehicles without displaying a "slow-moving vehicle emblem."

H.B. 564. Prohibiting the operation of a vehicle on a public highway that has less clearance of the roadway than the clearance of the lowermost portion of any rim of any wheel in contact with the road.

H.B. 935. Expanding the responsibility of a driver following another vehicle to make it clear that he must do so in a manner that will allow him to stop without hitting the preceding vehicle.

S.B. 7. Adding smog emission abatement equipment on vehicles to the equipment to be inspected and raising the inspection fee to \$2.00.

S.B. 11. Removing the stipulation that only farm vehicles may travel the highways on other than rubber tires.

S.B. 12. Providing that when another state suspends a Texas resident's operators license for failure to file proof of financial responsibility, Texas will suspend the license unless the failure is the fault of the operator's insurance company.

S.B. 78. Providing for the temporary operation of a motor vehicle without a license by one whose license expired while he was in the armed forces and serving in Southeast Asia.

S.B. 743. Authorizing a district court judge, upon a hearing, to permit the Department of Public Safety to issue a limited occupational driver's license to one whose regular license has been suspended for causes other than physical or mental disability or impairment.

NATURAL RESOURCES

Water

H.B. 176. Broadening the present law to provide that state water may be stored or diverted for "any beneficial use."

H.B. 178. Adding "other beneficial uses" to the list of priorities for which state water may be used.

H.B. 181. Declaring as property of the state any water imported if transported through beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state.

H.B. 1138. Removing the requirement that statements required in the taking of state waters be sworn to.

S.B. 242. Increasing to \$200 million the aggregate amount of negotiable bonds that may be issued by the Water Development Board, eliminating the four percent interest limit, and extending the maturity period to 50 years.

S.B. 243. Eliminating the termination date for financial assistance available from the Texas Water Development Board.

S.B. 246. Increasing from 40 to 50 years the maximum maturity for bonds or securities purchased by the Texas Water Development Board.

S.B. 411. Providing for the use of \$3.5 billion by the Texas Water Development Board under certain conditions, and upon the approval of the necessary constitutional amendment. (The amendment failed.)

Wildlife

H.B. 130. Providing that no one may receive a special hunting permit on wildlife management areas for two consecutive years unless all applications from persons who applied but did not receive a special permit in the preceding year are filled.

H.B. 310. Excluding roadrunners from the unprotected bird list.

H.B. 522. Empowering the Parks and Wildlife Department to permit qualified persons to take protected wildlife or fish for certain specified purposes.

H.B. 530. Authorizing the Parks and Wildlife Department to issue numbered tags for trotlines used in salt waters of the state.

H.B. 736. Prohibiting catching, killing, purchasing, selling, or transporting any bird other than a game bird, with certain exceptions.

H.B. 840. Providing for the seizure and sale of unlawfully possessed marine life.

H.B. 1353. Authorizing the Parks and Wildlife Department to contract, or to perform with its own personnel, for the eradication of noxious weeds; authorizing an expenditure of \$200,000.

S.B. 170. Prohibiting catching, killing, purchasing, or selling an alligator or its hide, except in the form of a finished manufactured product.

S.B. 324. Providing that public land previously designated as a park, recreation area, scientific area, wildlife refuge, or historic site shall not be taken for other uses except under certain circumstances.

S.B. 472. Authorizing the Board of Regents, State Senior Colleges, to transfer certain land to the United States Department of the Interior, to be used as a fish hatchery.

LOCAL GOVERNMENT

H.B. 87. Prohibiting the sale of public lands by political subdivisions without first giving proper notice.

S.B. 6 (Second called session). Providing that certain units of government may secure motor vehicle liability insurance under the assigned risk plan subject to certain limitations.

S.B. 233. Allowing counties or municipalities to authorize their law enforcement officers to give service to other counties or municipalities if emergency warrants.

S.B. 245. Extending from 40 to 50 years the time within which a political subdivision must be able to retire its related indebtedness in order to qualify for the state financial assistance as approved by the Water Development Board.

S.B. 327. Repealing the requirement that a state agency or political subdivision of the state file with the Secretary of State a copy of each contract or agreement entered into with the federal government.

Municipalities

H.B. 55. Validating incorporation and charter amendment proceedings of cities and towns.

H.B. 336. Validating revenue and ad valorem tax bonds issued by cities.

H.B. 566. Authorizing any city to exercise eminent domain or police power over land obtained separately or jointly with other subdivisions.

H.B. 980. Authorizing cities and towns to hold an election for issuing general obligation bonds with a maximum interest of 6.5 per cent and a maximum maturity of 40 years, under certain circumstances.

S.B. 775. Validating all proceedings, except those relating to utilities, taken by the governing bodies of all cities and towns in connection with the establishment of civic centers.

Counties

H.B. 30. Repealing the requirement that the county auditor keep financial records for all school districts in his county.

H.B. 365. Authorizing certain wage deductions for county employees, on a voluntary basis.

H.B. 644. Removing the ceiling of \$300 yearly that may be paid county commissioners to reimburse their traveling expenses.

H.B. 742. Authorizing the commissioners court of any county to establish a perpetual trust fund to provide for the upkeep of neglected public and private cemeteries in the county.

H.B. 748. Relating to petitions to hold county road bond elections.

H.B. 1066. Revising the power of the commissioners court in case of a rabies emergency.

H. B. 1134. Setting the bond required of district and county clerks at \$5,000, or, for county clerks, not less than 20 per cent of the fees collected in any one year during the previous term of office.

H.B. 1483. Authorizing counties to contribute funds to a soil conservation district to be used to match state funds for use in soil conservation and flood control programs.

S.B. 14 (Second called session). Authorizing commissioners courts in counties where hospital districts are located to sell land and buildings and lease them back for hospital district purposes.

S.B. 23 (Second called session). Providing for the office of purchasing agent and his powers and duties in all counties of 74,000 or more population.

S.B. 32 (Second called session). Authorizing any county to sell lands granted to it for educational purposes and providing for the investment of the revenue from such sales.

S.B. 176. Allowing all counties to issue and refund revenue bonds for hospital purposes in accordance with the procedures set forth under the County Hospital Authority Act, thus allowing participation in grant and loan programs.

S.B. 195. Authorizing county auditors to place in the proper general fund of each county any accumulated interest from certain trust funds to offset expenses of handling trust funds for the benefit of litigants.

S.B. 580. Applying certain parts of the General Workmen's Compensation Act to certain county employees.

APPENDIX B

Special Districts Authorized or Created
by the Sixty-first Texas Legislature

APPENDIX B

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE SIXTY-FIRST TEXAS LEGISLATURE, REGULAR SESSION

| Type and Name of District | Location (County or Counties) | Bill Number |
|--|----------------------------------|----------------|
| <i>Authorities (3)</i> | | |
| Brazos County Airport Authority | Brazos | H.B. 189 |
| Gulf Coast Waste Disposal Authority | Chambers, Galveston, Harris | S.B. 225 |
| Rio Grande Valley Municipal Water Authority | Cameron, Hidalgo, Starr, Willacy | H.B. 1368 |
| <i>Conservation (4)</i> | | |
| Brazoria County Conservation and Reclamation District No. 3 | Brazoria | H.B. 1260 |
| DeWitt County Countywide Conservation and Reclamation District | DeWitt | H.B. 1460 |
| Lavaca County Countywide Conservation and Reclamation District | Lavaca | H.B. 1461 |
| Tattor Road Municipal District | Harris | H.B. 1114 |
| <i>Hospitals (21)</i> | | |
| Bailey County Hospital District | Bailey | H.B. 97 |
| Cameron County Hospital District | Cameron | S.B. 30 |
| Denton County Hospital District | Denton | H.B. 646 |
| Dickens County Hospital District | Dickens | S.B. 545 |
| Donley County Hospital District | Donley | S.B. 525 |
| Earth-Spring Lake Hospital District (dissolution) | Lamb | H.B. 20 |
| East Coke Hospital District | Coke | H.B. 1462 |
| Fannin County Hospital District | Fannin | S.B. 725 |
| Foard County Hospital District | Foard | S.B. 717 |
| Harrison County Hospital District | Harrison | H.B. 146 |

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|--|-------------|-----------|
| Karnes County Hospital District | Karnes | H.B. 1310 |
| Moore County Hospital District | Moore | H.B. 16 |
| North Runnels County Hospital District | Runnels | H.B. 145 |
| Olton Hospital District | Lamb | H.B. 1463 |
| Ranger Hospital District | Eastland | H.B. 495 |
| South Eastland County Hospital District | Eastland | H.B. 1214 |
| South Limestone Hospital District | Limestone | H.B. 1435 |
| Stratford Hospital District | Sherman | H.B. 265 |
| Teague Hospital District | Freestone | S.B. 40* |
| West Wise County Hospital District | Wise | H.B. 233 |
| Willacy County Hospital District | Willacy | S.B. 356 |
| * Second called session. | | |
| <i>Utilities (67)</i> | | |
| Amigoland Utility District | Cameron | H.B. 847 |
| Arroyo Estates Utility District | Cameron | H.B. 1318 |
| Bammel Utility District | Harris | H.B. 1104 |
| Bay Ridge Utility District | Galveston | S.B. 482 |
| Belleau Wood East Utility District | Harris | H.B. 605 |
| Boone Road Utility District | Harris | H.B. 1107 |
| Braes Utility District | Harris | H.B. 1301 |
| Burlington Colony Municipal Utility District | Fort Bend | H.B. 873 |
| Candlewood Utility District | Harris | H.B. 1109 |
| Cape Royale Utility District | San Jacinto | H.B. 1313 |
| Casa Manana Utility District | El Paso | H.B. 1481 |
| Cedar Bayou Park Utility District | Harris | H.B. 971 |
| Cherry Hill Municipal Utility District | Fort Bend | H.B. 877 |
| Chimney Rock Municipal Utility District | Fort Bend | H.B. 874 |

APPENDIX B (Continued)

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE SIXTY-FIRST TEXAS LEGISLATURE, REGULAR SESSION

| Type and Name of District | Location (County or Counties) | Bill Number |
|---|----------------------------------|----------------|
| CNP Utility District | Harris | H.B. 1479 |
| Court Road Municipal Utility District | Fort Bend | H.B. 876 |
| Cypress Creek Utility District | Harris | H.B. 1103 |
| East Plantation Utility District | Montgomery | H.B. 1336 |
| Fairwood Utility District | Harris | H.B. 1444 |
| Fallbrook Utility District | Harris | H.B. 1413 |
| Fondren Lake Municipal Utility District | Fort Bend | H.B. 934 |
| Glenshire Municipal Utility District | Harris | H.B. 309 |
| Greenbriar Utility District | Harris | H.B. 1294 |
| Green Ridge Municipal Utility District | Fort Bend | H.B. 879 |
| Greenwood Utility District | Harris | H.B. 1344 |
| Gulfway Utility District | Harris | H.B. 979 |
| Harbor Utility District | Galveston | H.B. 1480 |
| Harris County Utility District No. 1 | Harris | H.B. 1255 |
| Harris County Utility District No. 2 | Harris | H.B. 1256 |
| Harris County Utility District No. 3 | Harris | H.B. 1257 |
| Harris County Utility District No. 4 | Harris | H.B. 1258 |
| Harris County Utility District No. 5 | Harris | H.B. 1259 |
| Harris County Utility District No. 6 | Harris | H.B. 1271 |
| Harris County Utility District No. 7 | Harris | H.B. 1272 |

Horsepen Bayou Municipal Utility District
 Hueco Valley Utility District
 Iowa Park Municipal District
 Kerrville South Utility District No. 1
 Lake Tanglewood Utility District
 Langham Creek Utility District
 Louetta Road Utility District
 Lynchburg Utility District
 Manning Utility District
 McHard Road Municipal Utility District
 Memorial Hills Utility District
 Memorial West Utility District
 North Belt Utility District
 Northgate Utility District
 Palm Valley Estates Utility District
 Parkway Utility District
 Pendleton Bridge Utility District
 Pinehurst Utility District
 Ponderosa Forest Utility District
 Post Oak Road Municipal Utility District
 Quail Valley Utility District
 Rayford Road Municipal Utility District
 Rhea Utility District
 Robards Utility District
 Sageglen Municipal Utility District
 Spring Hill Utility District
 Tehuacana Utility District
 Thompson Road Utility District

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|-----------------|-----------|
| Harris | S.B. 707 |
| El Paso | S.B. 709 |
| Brazoria | H.B. 1486 |
| Kerr | H.B. 435 |
| Randall | H.B. 813 |
| Harris | H.B. 1110 |
| Harris | H.B. 1471 |
| Harris | H.B. 591 |
| Harris | H.B. 1101 |
| Fort Bend | H.B. 875 |
| Harris | H.B. 1299 |
| Harris | H.B. 1108 |
| Harris | H.B. 603 |
| Harris | H.B. 604 |
| Cameron | H.B. 806 |
| Harris | H.B. 1345 |
| Sabine | H.B. 569 |
| Montgomery | H.B. 1064 |
| Harris | H.B. 1102 |
| Fort Bend | H.B. 872 |
| Fort Bend | H.B. 1335 |
| Montgomery | H.B. 793 |
| Harris, Liberty | H.B. 1436 |
| Bexar | H.B. 575 |
| Harris | H.B. 1342 |
| Gregg | H.B. 1478 |
| McLennan | H.B. 766 |
| Harris | H.B. 590 |

APPENDIX B (Continued)

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE SIXTY-FIRST TEXAS LEGISLATURE, REGULAR SESSION

| Type and Name of District | Location (County or Counties) | Bill Number |
|---|----------------------------------|----------------|
| Tigua-Hueco Utility District | El Paso | S.B. 712 |
| Timber Creek Utility District | Bexar | H.B. 1360 |
| Timber Lane Utility District | Harris | H.B. 1300 |
| Tomball Road Utility District | Harris | H.B. 1105 |
| Woodland North Utility District | Harris | H.B. 1106 |
| <i>Water Related (13)</i> | | |
| Baytown Levee District | Harris | H.B. 1022 |
| Burleson County Water Control and Improvement District No. 1 | Burleson | H.B. 1431 |
| Collin-Denton County Water and Sanitation District | Collins, Denton | H.B. 645 |
| Galveston County Flood Control District | Galveston | S.B. 385 |
| Harris County Water Control and Improvement District No. 132 | Harris | H.B. 765 |
| Hidalgo Drainage District No. 2 | Hidalgo | H.B. 1278 |
| Jackson County County-wide Drainage District | Jackson | S.B. 552 |
| San Patricio County Drainage District | San Patricio | H.B. 756 |
| Sulphur Springs Water District | Hopkins | H.B. 1370 |
| West Brazoria County Drainage District | Brazoria | H.B. 273 |
| Willacy County Drainage District No. 1 | Willacy | H.B. 45 |
| Willacy County Drainage District No. 2 | Willacy | H.B. 46 |
| White Bluff Water Control and Improvement District of Hill County | Hill | H.B. 1389 |

APPENDIX C

Interim Studies Authorized by the Sixty-first
Texas Legislature

APPENDIX C

INTERIM STUDIES AUTHORIZED BY THE SIXTY-FIRST TEXAS LEGISLATURE

| Subject of Study | Study Group ¹ | Bill or Resolution ² |
|---|--------------------------|------------------------------------|
| <i>Taxation</i> | | |
| (1) Preparation and supervision of tax legislation. | S. | S.R. 36** |
| (2) State and Local Tax Policy. | S.R.P. | H.C.R. 112 |
| (3) Personal property and ad valorem taxes. | R. | H.S.R. 453 |
| (4) Delinquent ad valorem taxes. | S.R.P. | S.C.R. 4** |
| (5) Taxation of farm, ranch, and forest lands. | S.R.P. | H.C.R. 8* |
| <i>Administration</i> | | |
| (6) Utilization of automatic data processing. | R. | H.S.R. 274 |
| (7) Computer utilization. | S. | S.R. 207 |
| (8) Creating Texas Department of Labor. | S.R.P. | H.C.R. 85 |
| (9) Ombudsman study committee. | R. | H.S.R. 340 |
| (10) Methods of economizing on state employment. | R.O. | H.S.R. 82* |
| (11) Investigation of all violations of state law and of matters relating to revenues and expenditures. | S. | S.R. 55 |
| (12) State owned and operated aircraft. | S.R.P. | S.C.R. 61 |
| (13) Pictorial record of state government. | S.O. | S.R. 12** |
| (14) Effect of Texas Tort Claims Act. | S. | S.R. 1041 |
| (15) Parking at the state Capitol complex. | R. | H.S.R. 499 |
| (16) Bexar County state office building. | R. | H.S.R. 404 |
| (17) Harris County state office building. | R. | H.S.R. 186 |

Business Regulation

| | | |
|--|--------|------------|
| (18) Consumer credit study committee. | S.R.P. | S.C.R. 9** |
| (19) Consumer protection in Texas. | S.P. | S.R. 1037 |
| (20) Motion picture theater industry in Texas. | S. | S.R. 41** |
| (21) Reevaluation of Texas liquor laws. | S. | S.R. 952 |
| (22) Public utility commission. | S. | S.R. 960 |
| (23) Oil and pipeline study. | S. | S.R. 165 |
| (24) Regulation of bail bond business. | R. | H.S.R. 498 |
| (25) Means of encouraging in-state investments by banks. | R. | H.S.R. 337 |

Regulation of Professions

| | | |
|---|------|------------|
| (26) Professional dental auxiliaries. | S. | S.R. 1045 |
| (27) Regulation of hairdressers and cosmetologists. | R. | H.S.R. 456 |
| (28) Laws on optometry and related activities. | R. | H.S.R. 513 |
| (29) Study committee for optometric professions. | S.P. | S.R. 776 |

Insurance and Securities

| | | |
|---|--------|------------|
| (30) Uninsured motorists coverage. | S.R. | H.C.R. 116 |
| (31) Comparative negligence judgments. | R. | H.S.R. 567 |
| (32) Interim insurance study committee. | S. | S.R. 834 |
| (33) Use of investment income to determine insurance rates. | S. | S.R. 1047 |
| (34) Insurance and holding company regulation. | S.R.P. | S.R. 977 |

Courts, Court Procedure, and Criminal Law

| | | |
|---|------------------|------------|
| (35) Texas judicial system. | ... ³ | H.S.R. 400 |
| (36) Laws relating to parole and "good time." | S. | S.R. 1006 |
| (37) Maximum security facilities for the criminally insane. | R.O. | H.S.R. 500 |
| (38) Criminal law study committee. | R. | H.S.R. 488 |
| (39) Youth drug abuse and rehabilitation programs. | ... ⁴ | S.R. 980 |

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE SIXTY-FIRST TEXAS LEGISLATURE

| Subject of Study | Study Group ¹ | Bill or Resolution ² |
|---|--------------------------|------------------------------------|
| (40) Availability of narcotics and dangerous drugs. | S.P.O. | S.R. 626 |
| (41) Narcotic and crime investigating committee. | R. | H.S.R. 273 |
| (42) Problems of heroin addiction. | R. | H.S.R. 187 |
| (43) Control of the availability of marijuana. | R. | H.S.R. 156 |
| (44) Crime and disorder on military installations. | R. | H.S.R. 50** |
| (45) Reproduction of materials from phonograph records and tapes. | S.P. | S.R. 909 |
| <i>Elections</i> | | |
| (46) The Texas Election Code. | R. | H.S.R. 385 |
| (47) Election law study committee. | S. | S.R. 817 |
| <i>Education</i> | | |
| (48) Aid to private education. | S.R.P. | H.C.R. 107 |
| (49) Operation of four-quarter programs in public schools. | R.O.P. | H.S.R. 365 |
| (50) Public education committee. | R. | H.S.R. 388 |
| (51) Review of the system of school district organization. | S.P.O. | S.R. 1061 |
| (52) Educational opportunities for preschool children. | S.R.P. | S.C.R. 65 |
| (53) University Interscholastic League. | R. | H.S.R. 7* |
| (54) Location of state-supported medical schools. | R.P. | S.R. 1031 |
| (55) Personal security payments and benefits for faculties. | S.R. | S.C.R. 32 |
| (56) Institute of Oceanography. | R.P. | H.S.R. 381 |

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|--|--------|------------|
| (57) Vocational and technical training. | S.P.O. | S.R. 1030 |
| (58) Vocational-technical education. | S. | S.R. 317 |
| (59) Surplus unskilled labor and labor shortage. | R. | H.S.R. 530 |

Health and Welfare

| | | |
|--|--------|------------|
| (60) Texas Youth Council. | R. | H.S.R. 544 |
| (61) Laws relating to mental health and retardation. | S.R.P. | S.C.R. 105 |
| (62) Public welfare system in Texas. | S.P. | S.R. 957 |
| (63) Older Texas citizens. | R. | H.S.R. 19* |
| (64) Military and veterans affairs. | R. | H.S.R. 77* |

Highways and Motor Vehicles

| | | |
|--|----|------------|
| (65) Motor vehicle licenses and issuance thereof. | R. | H.S.R. 372 |
| (66) Traffic safety and fire protection in the Houston ship channel. | R. | H.S.R. 83* |

Natural Resources

| | | |
|---|--------|------------|
| (67) The ecological environment of the state. | S.R.P. | S.C.R. 46 |
| (68) Study of various agencies concerned with planning and management of natural resources. | S.R.P. | S.C.R. 84 |
| (69) DDT usage and harmful effects thereof. | R. | H.S.R. 370 |
| (70) Parks and recreation facilities. | S. | S.R. 993 |
| (71) Parks and wildlife regulatory responsibility. | R. | H.S.R. 426 |
| (72) Parks and wildlife. | R. | H.S.R. 342 |
| (73) Control methods of well-spacing, production and storage of hydrocarbon resources. | R. | H.S.R. 502 |
| (74) Severed mineral estates for which the owners cannot be located. | R. | H.S.R. 411 |

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE SIXTY-FIRST TEXAS LEGISLATURE

| Subject of Study | Study Group ¹ | Bill or Resolution ² |
|---|--------------------------|---------------------------------|
| <i>Beaches and Rivers</i> | | |
| (75) Development and use of bays, inlets and tributaries. | R. | H.S.R. 489 |
| (76) Study of the state's coastal areas. | ⁵ | S.C.R. 38 |
| (77) Committee on Texas coastal resources. | S.P. | S.R. 755 |
| (78) Committee to study the beaches of Texas. | S.P.O. | S.R. 79* |
| (79) Committee to study the beaches of Texas. | S.P.O. | S.C.R. 15** |
| (80) Coastal lands and waters. | R.P.O. | H.S.R. 57** |
| (81) Control and use of floodwaters of the Sabine River. | R. | H.S.R. 279 |
| (82) Salt in the Brazos and Red Rivers. | ⁶ | H.S.R. 16** |
| <i>Other Water-Related Committees</i> | | |
| (83) House water committee. | R. | H.S.R. 191 |
| (84) Consequences of water injection into the earth. | R. | H.S.R. 367 |
| (85) Recreational water safety. | R. | H.S.R. 472 |
| (86) Water. | S.R.P. | H.C.R. 12* |
| (87) Desalination processes. | ⁷ | H.S.R. 49* |
| <i>Agriculture</i> | | |
| (88) Means of increasing agricultural production. | S. | S.R. 870 |
| (89) Development of trade, commerce, and technology in agriculture. | S.O. | S.R. 621 |

| | | |
|--|--------|------------|
| (90) Economic gains study committee. | R.P. | H.S.R. 278 |
| (91) Milk and milk products committee. | R.P. | H.S.R. 281 |
| (92) Natural fibers and textile development. | S.R.P. | H.C.R. 118 |
| (93) Agricultural exports. | R.P. | H.S.R. 44 |
| (94) Imported fire and infestation. | R.P. | H.S.R. 463 |
| (95) Livestock marketing. | R.P. | H.S.R. 360 |
| (96) Laws relating to marketing and branding of livestock. | S.R.P. | S.C.R. 74 |
| (97) Study committee on corporate farming, livestock feeding, and ranching. | S.P. | S.R. 815 |

Local Government

| | | |
|--|------|------------|
| (98) Methods for controlling and eliminating urban problems. | S. | S.R. 954 |
| (99) Jurisdiction and activities of various types of authorities and special districts. | S. | S.R. 595 |
| (100) County government and county officials. | R.P. | H.S.R. 394 |

Legislature

| | | |
|--|--------|-------------|
| (101) Committee on office space in the Capitol. | S.R.O. | S.C.R. 18* |
| (102) Capitol equipment expenditures. | R.P. | H.S.R. 341 |
| (103) Construction and improvement of offices and House facilities. | R. | H.S.R. 386 |
| (104) Rules of the House of Representatives. | R. | H.S.R. 56** |
| (105) Professional staff for Senate Finance Committee. | N. | S.R. 76** |
| (106) Senate rules. | S. | S.R. 983 |
| (107) House general investigating committee. | R. | H.S.R. 38 |
| (108) Legislative modernization. | S.R. | H.C.R. 124 |
| (109) Citizens committee on the Legislature. | P. | H.C.R. 148 |
| (110) Congressional redistricting and legislative reapportionment. | S. | S.R. 1055 |

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE SIXTY-FIRST TEXAS LEGISLATURE

| Subject of Study | Study Group ¹ | Bill or Resolution ² |
|---|--------------------------|------------------------------------|
| <i>Miscellaneous</i> | | |
| (111) Texas-Mexico friendship. | R.P. | H.S.R. 112 |
| (112) Committee on Mexican-American affairs. | R. | H.S.R. 373 |
| (113) Various needs of West Texas. | R. | H.S.R. 80* |
| (114) Youth of Texas. | R. | H.S.R. 455 |
| (115) Alternative methods of attracting new industry. | S.R.P. | H.C.R. 89 |
| (116) Charitable foundations in Texas. | R.P. | H.S.R. 339 |
| (117) Texas Non-Profit Corporation Act. | ⁸ | H.S.R. 339 |
| (118) Artifacts and archeological finds in Texas. | R. | H.S.R. 492 |
| (119) Historical and recreational sites. | S. | S.R. 42** |
| (120) Museum for Spanish treasure. | R. | H.S.R. 78* |
| (121) Texas Civil Air Patrol activities. | S.P. | S.R. 999 |
| (122) Better coordination of civil air patrol activities with state and federal search and rescue. | R.P. | H.S.R. 528 |
| (123) Lunar Landing Medal of Valor. | S.R.P. | S.C.R. 6* |

¹ Study Group Legend: S-Senators; R-Representatives; P-Private Citizens; O-State Officials; N-None Specified.

² Session Legend: No asterisk-Regular Session; * First Called Session; ** Second Called session.

³ House Judiciary Committee.

⁴ Senate Youth Affairs Committee.

⁵ Interagency Natural Resources Council.

⁶ Water Quality Board.

⁷ Water Resources Institute of Texas A&M University.

⁸ House Judiciary Committee.